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1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----x
UNITED STATES OF AMERICA,

3 v.

20 CR 330 (AJN)
Sentencing

4 GHISLAINE MAXWELL,

5 Defendant.

6 -----x

New York, N.Y.
June 28, 2022
11:00 a.m.

8 Before:

9 HON. ALISON J. NATHAN,

10 United States Circuit Judge
Sitting by Designation

11
12 APPEARANCES

13 DAMIAN WILLIAMS

14 United States Attorney for the
Southern District of New York

15 BY: MAURENE COMEY

ALISON MOE

16 LARA POMERANTZ

ANDREW ROHRBACH

17 Assistant United States Attorneys

18 HADDON MORGAN AND FOREMAN

Attorneys for Defendant

19 BY: CHRISTIAN R. EVERDELL

-and-

20 BOBBI C. STERNHEIM

21 Also Present: Amanda Young, FBI

Paul Byrne, NYPD

22 Sunny Drescher,

Paralegal, U.S. Attorney's Office

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(In open court; case called)

DEPUTY CLERK: Counsel, please state your name for the record starting with the government.

MS. MOE: Good morning, your Honor. Alison Moe, Lara Pomerantz, Maurene Comey and Andrew Rohrbach for the government. We're joined at counsel table by paralegal specialist Sunny Drescher. Also as a member of our team in the gallery are our case agents, Special Agent Amanda Young and Detective and Paul Byrne.

THE COURT: Good morning to you all.

MS. STERNHEIM: Good morning. Bobbi C. Sternheim and Christian R. Everdell for Ghislaine Maxwell, who is present at counsel table.

THE COURT: Good morning, Counsel.

Good morning, Ms. Maxwell.

Please, be seated everyone.

We are here today for sentencing in United States v. Ghislaine Maxwell 20 CR 330.

In preparation for today's proceeding, I have reviewed the probation report, which is dated June 9, 2022 by revision date.

I have also received and reviewed the following additional submissions: I have the defense memorandum in support of PSR objections, which is dated June 15, 2022. I have the defendant's primary sentencing submission, which is

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1 dated June 15, 2022. There are exhibits attached to that
2 sentencing submission, Exhibits A through J. A through H --
3 I'm sorry -- A through I were a series of letters from friends
4 and family members of Ms. Maxwell. J is a forensic psychiatric
5 evaluation. And then I received by a later transmission date
6 of June 26, 2022 a letter from an inmate at MDC related to
7 Ms. Maxwell's assistance of other inmates with tutoring.

8 I have the government's sentencing submission, which
9 is dated June 22, 2022.

10 With respect to victim impact statements, I have dated
11 June 22, 2022 a victim impact statement from Annie Farmer. I
12 have a victim impact statement from the witness who went by the
13 name of Kate under my pseudonym order during trial. That I
14 believe is undated. I have a statement dated June 22, 2022
15 from Virginia Roberts, or Giuffre. I have same date from
16 Juliette Bryant, same date from Maria Farmer, same date from
17 Teresa Helm. I also have undated statements from Sarah
18 Ransome -- I apologize if I'm saying your name wrong -- and
19 Elizabeth Stein.

20 Counsel, is there anything else I should have in front
21 of me for purposes of sentencing?

22 MS. MOE: No, your Honor. Thank you.

23 THE COURT: Ms. Sternheim.

24 MS. STERNHEIM: Other than the submissions that we
25 made in connection with the CVRA, that is a complete record of

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1 what we have received and reviewed.

2 THE COURT: Yes. Thank you. And that is part of the
3 record including there was an ethics letter and other materials
4 submitted in connection with your objection to that.

5 MS. STERNHEIM: Thank you very much.

6 THE COURT: Thank you.

7 All right. Counsel, would you just please confirm
8 that you've received each other's submissions?

9 MS. MOE: Yes, your Honor.

10 MS. STERNHEIM: Yes.

11 THE COURT: Let's also confirm all submissions are
12 filed on ECF.

13 MS. MOE: That's correct, your Honor.

14 MS. STERNHEIM: Yes.

15 THE COURT: Thank you.

16 Ms. Moe, I did have the government indicate this in a
17 letter, but if you would confirm and articulate what the
18 government has done to notify any crime victims of their rights
19 under the Justice For All Act?

20 MS. MOE: Yes, your Honor.

21 With respect to the six individuals who were proved at
22 trial to be directly impacted by the offense conduct, the
23 government has notified those individuals through their counsel
24 about the sentencing and about their right to be heard.

25 In addition to that notification, the government has

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1 used the victim notification page on the U.S. Attorney's Office
2 website regarding this case about the upcoming sentencing.

3 THE COURT: And you posted the Court's order there
4 regarding a process for submission of statements.

5 MS. MOE: Yes, your Honor.

6 THE COURT: Thank you.

7 We'll turn to the presentence report.

8 Ms. Sternheim, I know that you have because you've
9 objected to a lot which we will talk about, but for the record,
10 have you read the presentence report and discussed it with your
11 client?

12 MS. STERNHEIM: Yes, your Honor.

13 And, if I may, Mr. Everdell will handle the objections
14 portion of our presentation.

15 THE COURT: Okay. We'll get to that in just a moment.
16 Thank you.

17 Ms. Maxwell, can you please confirm that you've read
18 the presentence report and had a full opportunity to discuss it
19 with your counsel?

20 THE DEFENDANT: I did have an opportunity to read it.

21 THE COURT: And an opportunity to discuss it with your
22 counsel?

23 THE DEFENDANT: I did.

24 THE COURT: Okay.

25 Ms. Moe, for the record, have you reviewed the

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1 presentence report?

2 MS. MOE: Yes, your Honor.

3 THE COURT: Thank you.

4 So we will turn first -- we'll set aside first the
5 guideline calculation. We'll turn to the factual accuracy of
6 the report. And I did receive substantial factual objections
7 to factual assertions in the report. I am prepared to go
8 through those with respect to any continuing factual objections
9 by the defense.

10 Let me confirm, Ms. Moe, does the government have any
11 objections to the report regarding factual accuracy?

12 MS. MOE: None, aside from those which are already
13 noted in the PSR.

14 THE COURT: No continuing objections.

15 MS. MOE: That's correct, your Honor.

16 THE COURT: Mr. Everdell, I know that you do have
17 continuing objections. Tell me where you'd like to begin.

18 MR. EVERDELL: Well, your Honor, I don't know if the
19 Court is planning on resolving each and every factual
20 discrepancy or dispute or whether there are certain ones that
21 the court will find are relevant to sentencing or whether we
22 should go through each in detail.

23 THE COURT: I am prepared to -- what I typically do is
24 go through each one so that if there is a correction to the
25 report that is being requested to be made, whether it's

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1 material to sentencing or not, I am prepared to address it.

2 So I believe the first -- what I see as your first
3 continued objection is to paragraph 22.

4 MR. EVERDELL: I'm just getting my submissions.

5 Yes, that's correct, your Honor.

6 THE COURT: I overrule the objection. I do credit
7 Juan Alessi's testimony that the defendant identified and
8 targeted Virginia after seeing her in the Mar-a-Lago parking
9 lot. The defendant also worked with Epstein to identify and
10 target Jane.

11 Paragraph three I see three objections to this
12 paragraph. Is that a continuing objection, Mr. Everdell?

13 MR. EVERDELL: Paragraph three, your Honor?

14 THE COURT: 23. I apologize.

15 MR. EVERDELL: Yes, your Honor.

16 THE COURT: I overrule the objection. The first
17 objection is regarding the conclusion that Ms. Maxwell was the
18 author of the essay in the paragraph. I overrule the objection
19 because a reasonable inference supported by the trial evidence
20 is that the defendant authored the essay. Metadata indicated
21 that the computer was registered to "GMax" and the document was
22 saved under the user name "Ghislaine."

23 The second objection is to the assertion that Epstein
24 transferred Ms. Maxwell approximately \$23 million during the
25 conspiracy. I overrule that objection. Bank statements

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1 admitted at trial showed that accounts under Epstein's name
2 wired approximately \$23 million over two occasions during the
3 conspiracy to accounts of "Ghislaine Maxwell." The defendant's
4 assertion that Epstein's accountant may have had access to and
5 control over these accounts does not undermine the reasonable
6 inference that the defendant controlled the funds in accounts
7 bearing her name, so that is established by a preponderance.

8 As to the third objection that there's no evidence in
9 the record that Epstein bought the defendant her New York City
10 townhouse, I overrule that objection because I credit Kate's
11 testimony that the defendant told her that Epstein bought the
12 defendant her New York townhouse.

13 Paragraph 25 is an objection to the characterization
14 of the Palm Beach residence being operated through a culture of
15 silence.

16 You'll let me know if you're not maintaining an
17 objection.

18 MR. EVERDELL: Yes. I think that the default is we
19 are, your Honor.

20 THE COURT: Understood.

21 I overrule this objection. Evidence at trial
22 indicates that this was the case. For example, the household
23 manual instructed employees to "see nothing, hear nothing, say
24 nothing." I credit Mr. Alessi's testimony that he understood
25 this instruction to be a kind of warning that he was supposed

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1 to be blind, deaf and dumb, and to say nothing of Epstein's and
2 Ms. Maxwell's lives.

3 Paragraph 26, there's an objection to the
4 characterization concerning the defendant's identification and
5 isolation of minor girls as inconsistent with the trial
6 evidence. I overrule this objection for the same reasons as
7 articulated with respect to paragraph 22. In addition, the
8 trial evidence established that the defendant and Epstein
9 isolated girls by spending time with them alone away from their
10 families. For example, Annie's testimony regarding the trip to
11 New Mexico. Jane's testimony that she would spend time at the
12 Palm Beach residence alone with Epstein and the defendant.

13 Paragraphs 27 and 28 the defendant makes two
14 objections: First, to the assertion that the defendant and
15 Epstein developed a scheme that created a "constant stream of
16 girls who recruited each other." And, second, she objects to
17 the assertion that she encouraged minor girls to bring other
18 minor girls to provide Epstein with sexualized massages.

19 Again, based on the trial testimony and evidence, I
20 overrule the objection. It supported the information in these
21 paragraphs. The evidence indicated the scheme started with the
22 defendant's recruitment of Virginia. Virginia then enlisted
23 Carolyn in addition to at least two other girls. Carolyn in
24 turn recruited at least three friends, and those friends then
25 brought more girls.

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1 Carolyn credibly testified that she was paid twice as
2 much when she brought friends to the massages. Based on the
3 defendant's control of household and Carolyn's testimony that
4 the defendant on occasion paid her directly, I find it more
5 probable than not by a preponderance of the evidence that
6 Virginia was also paid more as encouragement to recruit
7 additional girls.

8 Paragraph 9, there's an objection to the inclusion of
9 Kate in this paragraph. It argues that her name should be
10 deleted because Kate is not a victim of the crimes charged in
11 the indictment.

12 MR. EVERDELL: Your Honor, I'm sorry to interrupt. I
13 think you said paragraph 9.

14 THE COURT: I did. I'm sorry. I'm skipping the first
15 number for some reason. 29. Thank you, Mr. Everdell.

16 I overrule this objection because the paragraph
17 doesn't assert that Kate was a statutory victim as we've
18 discussed throughout trial and the government didn't contend
19 that Kate was a victim of the crimes charged in the indictment,
20 and that paragraph doesn't assert that she was.

21 Paragraphs 30 to 38, there's objection throughout
22 these to the characterization of the defendant having groomed
23 Jane. I overrule these objections. I think the government is
24 right here that the objection is conflating grooming with
25 enticement to travel for purposes of sexual contact. Jane's

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1 credible trial testimony established that the defendant took
2 steps to make Jane comfortable and encouraged her to engage in
3 illegal sex acts with Epstein.

4 Paragraphs 39 to 45 which describe specific conduct
5 involving Kate, I think the specific request here -- well,
6 first, was that it should be removed from the PSR because Kate
7 was not a victim of the crimes charged in the indictment, and
8 then, alternatively, that it be moved to a different paragraph
9 with a heading offense behavior not part of relevant conduct.
10 I don't see that this is necessary. I overrule the objection.
11 Conduct involving Kate may be considered at sentencing her
12 testimony revealed additional details of the defendant's method
13 of identifying and introducing to Epstein young girls for
14 sexualized massages. Her testimony also established the
15 defendant's knowledge of the sexualized nature of massages with
16 Epstein.

17 Paragraph 43, the defendant contends this paragraph
18 should include a sentence that Kate was above the age of
19 consent at all times. I think the paragraph says that Kate was
20 age 17 or above at all relevant times, and I have no objection
21 to including that she was above the age of consent at all times
22 based on the trial evidence, so I will make that change to
23 paragraph 43 of the PSR.

24 Paragraph 54, the defendant objects that there's no
25 evidence that Epstein paid for Annie's trip to Thailand. That

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1 objection is overruled. Annie testified to this fact at trial,
2 and I credit this testimony.

3 Paragraph 5 -- sorry -- did it again. 55, defendant
4 makes three objections to the paragraph. I overrule the
5 objections. The record supports that the defendant personally
6 recruited Virginia to provide Epstein with sexualized massages
7 when she was a minor. Jane and Kate's testimony established
8 that the defendant was aware that the massages were sexualized.
9 I credit Mr. Alessi's testimony that the defendant approached
10 Virginia, and that Virginia visited the residence -- approached
11 Virginia for the first time, and that Virginia visited the
12 residence later that day. Flight records and credible witness
13 testimony established that this meeting occurred before
14 Virginia was 18. In addition, when Virginia brought Carolyn to
15 the residence, the defendant greeted them and instructed
16 Virginia to show Carolyn -- quoting from the trial record --
17 "what to do." Carolyn then witnessed Virginia give Epstein a
18 sexualized massage involving sexual intercourse. Finally, as I
19 explained in my resolution to paragraphs 27 and 28, I do
20 conclude that there is a sufficient basis to find by a
21 preponderance of the evidence that the defendant used monetary
22 incentives to encourage Virginia to recruit Carolyn.

23 Paragraph 58, the defendant objects to the assertion
24 that Carolyn was 14 years old when Virginia brought her to
25 Epstein's residence, claiming that Carolyn's recollection is

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1 inconsistent and unreliable. I overrule this objection.
2 Carolyn testified at trial that Virginia first brought her to
3 Epstein's residence when she was 14 years old. I found Carolyn
4 to be credible and credit her testimony. I'm not persuaded by
5 the arguments to the contrary. Moreover, @Sean's credible
6 testimony corroborated Carolyn's recollection.

7 Paragraph 59, the defendant makes two objections.
8 Same objection to Carolyn being 14. For the reasons I've
9 stated, that's overruled. She objects to Carolyn's assertion
10 that she visited Epstein's residence more than a hundred times.
11 I overrule that objection. Again, I credit Carolyn's
12 testimony. She testified that she went to the house "over 100
13 times." I reject the suggestion that this is improbable based
14 on Epstein's travel schedule.

15 Paragraphs 61 and 62 again object to Carolyn's age,
16 and I overrule for the same reasons.

17 Paragraph 64, three objections. First, the defendant
18 objects to Carolyn's assertion that she visited the Palm Beach
19 residence over a hundred times and her assertion that she was
20 14. For the reasons I've given, I overrule those objections.
21 She objects to the assertion that Carolyn stopped performing
22 sexualized massages in 2001 when she was 18 years old and
23 argues that the evidence indicates she was 17 years old. We're
24 going to take up the issue of this timing question with respect
25 to the issue of which Guidelines Manual controls. So I'll skip

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1 that for now.

2 Paragraph 72, defendant objects to the assertion that
3 Epstein briefly penetrated Carolyn's vagina with his penis
4 because her trial testimony the defense claims is contradicted
5 by a 2009 deposition testimony. I overrule this objection.
6 Again, I credit Carolyn's testimony. Carolyn plainly testified
7 to this at trial.

8 Paragraph 74, the defendant again objects to the
9 assertion as to the age and timing. Again, we'll pick up on
10 that issue when we discuss the appropriate guideline manual.

11 Paragraphs 75 and 76 the defendant objects to the
12 inclusion of these paragraphs in the presentence report because
13 the perjury counts have not been presented to a jury, and so
14 she contends have no bearing on the sentence in this case. I
15 do overrule this objection. A sentencing court's discretion is
16 largely unlimited as to the kind of information it may
17 consider. It's free to consider evidence of uncharged crimes,
18 dropped counts of an indictment, criminal activity resulting in
19 acquittal in determining sentence. *United States v. Bennett*,
20 839 F.3d 153 (2d Cir. 2016). I may consider the information as
21 long as the information is reliable and accurate. For the
22 following reasons, I do conclude the information underlying the
23 severed perjury charges is reliable. The defendant testified
24 under oath in 2016 that she was not aware of Epstein's scheme
25 to recruit underage girls for sexual massages and other than

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1 Virginia, was unaware if she had interacted with anyone under
2 the age of 18 at Epstein's properties. She never gave Annie
3 Farmer a massage. She was unaware whether Epstein possessed
4 sex toys. She was unaware that he was engaging in sexual
5 activity with anyone other than her in the 1990s and 2000s.
6 She never gave Epstein a massage. The credible testimony and
7 evidence admitted at trial disproves these assertions which
8 were made under oath.

9 Paragraph 79, the defendant objects to the
10 characterization of the offense conduct as contrary to the
11 trial record. Here, defense hasn't provided any reason
12 specifying this, and I don't see one. So based on the written
13 objection, it's overruled.

14 Paragraph 81, the defendant objects to the assertion
15 that Ms. Maxwell had direct responsibility for any sexualized
16 massages that several women or any other people that Carolyn
17 may have brought to Epstein's residence may have performed, and
18 she contends there's no record that she interfaced with these
19 individuals. I am prepared to overrule that objection.

20 The paragraph makes clear that these individuals did
21 not interact directly with Ms. Maxwell. Nevertheless, for the
22 reasons explained a little while ago in overruling the
23 objections to paragraphs 27 and 28, I do conclude that the
24 evidence at trial established that the defendant's recruitment
25 of Virginia set the recruitment scheme in motion that resulted

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1 in the abuse of these individuals.

2 Paragraph 82, the objection is to the assertion that
3 the records recovered from the Palm Beach residence during the
4 2005 search reveal that additional minors provided Epstein with
5 sexualized massages between 2001 and 2004. Again, I overrule
6 the objection. The trial record including message pads, phone
7 book entries, and testimony of witnesses establishes by a
8 preponderance that the information contained in this paragraph
9 is accurate.

10 Paragraph 83, so there was a revision here. I'm not
11 sure if there is a continuing objection, Mr. Everdell. The
12 previous objection was to the assertion that the defendant is
13 responsible for the victimization of untold number of other
14 victims. The probation department adopted the government's
15 suggestion, revised the paragraph to assert that the defendant
16 is responsible for the victimization of additional minor
17 victims. To the extent there is a continuing objection, I
18 overrule it for the reasons stated regarding paragraphs 27 and
19 28.

20 Paragraph 85 is an objection to the inclusion of
21 Kate's victim impact statement and her status under the CVRA.
22 We have litigated the question of Kate's ability to make a
23 statement here. I believe that defense's ultimate position was
24 that with the requested redactions, there were no objections to
25 her making a statement. Do I have that right?

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1 MR. EVERDELL: That's correct, your Honor.

2 THE COURT: So I did reject the request for redactions
3 for the reasons explained in my order. And as I explained in
4 overruling the objection to paragraphs 39 to 45, Kate's
5 testimony and her statement are relevant to sentencing which
6 I've indicated she may give. And with that, there's objections
7 pertaining to fine and assets and the like. I think we can
8 turn to those when we get to the fine. Mr. Everdell, okay with
9 that?

10 MR. EVERDELL: Yes, your Honor. So we'll delay the
11 offense level calculation objections and the ones related to
12 the financial penalties for now?

13 THE COURT: Yes, precisely, and we'll pick those up.
14 I think otherwise that's it for what I understand to be
15 continuing objections after probation responded to your
16 requests and assertions. Agree with that, Mr. Everdell?

17 MR. EVERDELL: Your Honor, the only one that I would
18 highlight is there was an objection, I believe it's framed
19 according to paragraph 173, which deals with the financial
20 penalties. The government made in their response some
21 representations that we take issue with, but if you're planning
22 on covering that later, we can reserve that till later because
23 it does deal with the financial penalties.

24 THE COURT: Yes, I have objections to 172, 178, 192
25 and 193.

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1 MR. EVERDELL: I guess in the final version, it
2 probably pertains to 172.

3 THE COURT: Thank you.

4 And with that, no further factual objections that need
5 resolution, Mr. Everdell?

6 MR. EVERDELL: Other than the ones we've just
7 discussed, no, your Honor.

8 THE COURT: Ms. Moe?

9 MS. MOE: No, your Honor. Thank you.

10 THE COURT: So, with those rulings, hearing no further
11 objections, with those rulings, I otherwise adopt the factual
12 recitations set forth in the PSR. As in all cases, the PSR is
13 sealed and made a part of the record in this matter. If an
14 appeal is taken, counsel on appeal may have access to the PSR
15 without further application to this court.

16 We'll turn now to the guideline calculation. As
17 counsel is aware, I am no longer required to follow the United
18 States Sentencing Guidelines, but I am still required to
19 consider the applicable guidelines in imposing sentence and
20 must therefore accurately calculate the Sentencing Guideline
21 range. The parties dispute multiple aspects of the guideline
22 calculation.

23 Just to outline the relevant overall calculations, the
24 defense contends that the correct guideline calculation is 51
25 to 63 months' imprisonment. The government contends that the

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1 correct calculation is 360 to 660 months' imprisonment and
2 argues that a guideline sentence is warranted.

3 The probation department has calculated the range at
4 292 to 365 months' imprisonment, but recommends a downward
5 variance to a term of 240 months' imprisonment.

6 Counsel, I have reviewed your written arguments
7 carefully. I have a few questions I want to ask, but I don't
8 need to hear repetition of your written arguments, but I would
9 be happy to give you an opportunity to add anything beyond your
10 submission if you'd like to make any additional arguments.

11 I'll hear from you now, Mr. Everdell.

12 MR. EVERDELL: Thank you, your Honor.

13 I will largely rely on my written submissions. I just
14 would like to amplify one or two things.

15 Your Honor, our initial argument, of course, is that
16 the Court must resolve who is to make the determination about
17 which book like -- when the offense conduct ended, which
18 determines guidelines book applies: the 2003 or 2004
19 guidelines. We argue that that is a jury determination because
20 the issue implicates the *Ex Post Facto* Clause. So the 2003
21 guidelines must apply because the jury was never asked to make
22 that factual determination.

23 I know your Honor is familiar with the arguments we
24 raised. I would just point out that the government in their
25 response really did not engage with our arguments about the

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1 issue of the *Ex Post Facto Clause* being implicated. They want
2 to cast this as purely a Sixth Amendment issue and cited cases
3 along the *Apprendi* lines. But this is an ex post facto issue
4 properly framed. This decision of when the offense conduct
5 ended implicates whether or not an ex post facto violation will
6 occur if the later guidelines is applied.

7 Under the cases that we've cited, your Honor, we think
8 that that is an issue for the jury to decide, and it is not
9 really in the *Apprendi* line of cases. It is focused on
10 ex post facto law. I just, for example, highlight for your
11 Honor the *Tykarsky* opinion that we cited for the Court. That
12 is not an *Apprendi* decision. That is not a Sixth Amendment
13 decision. In that case, there was an increase in the mandatory
14 minimum that took effect potentially after the offense conduct
15 ended. It's interesting that at the time the law was that you
16 could do that, a judge could make a finding and increase it as
17 long as it didn't increase beyond the statutory maximum, so
18 there was no *Apprendi* issue there. That decision later got
19 overruled by the Supreme Court, but at the time of *Tykarsky*, it
20 clearly wasn't a Sixth Amendment *Apprendi* issue. They resolved
21 that issue on an ex post facto basis. This decision about
22 whether or not the offense conduct ended at a certain time, if
23 it triggers an increase that implicates the ex post facto
24 clause is a decision for the jury to make. The government has
25 not responded to that argument, and we think that that is a

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1 persuasive -- along with the other sources and opinions we've
2 cited, it's persuasive authority for the fact this is a jury
3 decision, not a Court determination.

4 THE COURT: Are you leaving that argument?

5 MR. EVERDELL: Yes, your Honor.

6 THE COURT: We'll do a little back-and-forth so I have
7 everybody's arguments in mind. Thank you.

8 Go ahead, Ms. Moe.

9 MS. MOE: Thank you, your Honor.

10 The government is confident the 2004 Manual applies in
11 this case. I believe we did engage with the ex post facto
12 issue thoroughly in our brief. The question is whether the
13 factual record at trial establishes that the offense continued
14 throughout the duration of 2004, which it emphatically did.
15 The testimony of a crime victim who testified at this trial
16 establishes that the offense conduct went past November 1,
17 2004.

18 THE COURT: So I think the framing of the question
19 here is very important and its technical -- this whole
20 discussion is very technical. It seems to me the question is
21 can the government point to a preponderance of the evidence
22 that conspiratorial conduct took place in this very small time
23 window, basically November and December 2004. That is what's
24 in issue, and the question is what the trial record establishes
25 with respect to that two-month window.

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1 To some extent, the government points, I think, to
2 post conspiracy conduct, and that concerns me. And so I would
3 like to ask you to draw my attention to what in the trial
4 record specifically speaks to November and December of 2004.

5 MS. MOE: Yes, your Honor.

6 As a threshold matter, the government's understanding
7 that the case law is that the question is what is the end date
8 of the conspiracy. In other words, if the conspirators are
9 taking actions periodically over time, the question is what is
10 the last date of the conspiracy? What does the trial evidence
11 establish about the final date? And here the trial evidence
12 was that the conspiracy was ongoing through all of 2004 and
13 into 2005.

14 THE COURT: But to make that point, I think you're
15 relying on post conspiracy evidence.

16 MS. MOE: No, your Honor. We're relying on evidence
17 that exceeds the date in the indictment, but it --

18 THE COURT: It exceeds also the date of Carolyn's 18th
19 birthday. And so it's not just what the indictment charges --

20 MS. MOE: Yes, your Honor.

21 THE COURT: -- but by a conspiracy that is dependent
22 here on Carolyn being under 18 for its continuation. And so
23 that's why I see what you're pointing to as post conspiracy,
24 not only because it goes past what the indictment charged, but
25 because I think legally you're pointing to non-conspiracy

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1 evidence.

2 MS. MOE: No, your Honor. I think our point is that
3 the conspiracy was still live at the end of 2004, and we know
4 that because in fact the conspiracy was still ongoing beyond
5 that, and I don't mean to be --

6 THE COURT: But, see, just in that sentence, the
7 conspiracy was going on beyond that, what you point to, I
8 think -- and tell me if I should look at something else, but
9 what you point to to make that argument is definitionally
10 non-conspiracy conduct.

11 MS. MOE: No, your Honor, in part because -- well, to
12 step back and discuss the framing of the issue. The question
13 is whether a conspiracy was still ongoing throughout 2004. And
14 the key thought tells us it's the defendant's burden to show
15 that she withdraw from the conspiracy if it was ongoing. The
16 question is in framing it, when did this conspiracy end. We
17 know that it was still live as of the end of 2004, in fact,
18 because, among other reasons, Carolyn testified that she was
19 continually going to Epstein's house through age 17 and through
20 age 18, which would have been throughout the duration of 2004
21 and 2005.

22 The government is not required to show that any
23 conspirator took an action in between those specific dates
24 because the question is when did the conspiracy terminate? Was
25 it still live at the end of 2004? And the evidence here shows

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1 that it certainly was. The message pads show that Carolyn was
2 still going to the house. Her testimony establishes that she
3 was still going to the house throughout that time period. We
4 do not agree that we're required to show that any conspirator
5 took a specific act in that exact window but just that the
6 conspiracy was still live, and the fact that there were
7 additional acts ratifying membership of the conspiracy
8 throughout 2004 and into 2005 satisfies that burden.

9 THE COURT: Again, just to make sure I'm not missing
10 anything you want to point to, the into 2005 is pointing to
11 post conspiracy conduct.

12 MS. MOE: Post indictment conduct, your Honor.

13 THE COURT: Post indictment. Is it in some way not
14 post conspiracy?

15 MS. MOE: Well, your Honor, again, the question before
16 the Court, according to the application is when the did offense
17 end.

18 THE COURT: Ms. Moe, I do understand you're framing
19 that question. I'm asking record evidence question. Is there
20 something you're pointing to for your statement, the post 2005
21 which consists of conspiratorial conduct?

22 MS. MOE: I think separate from the 2005 evidence, we
23 would point to in the fall of 2004, a message from Carolyn in
24 November of 2004 showing that she was contacting the house to
25 make a scheduled appointment.

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1 THE COURT: It's not dated November 2004; am I right?
2 It's on a page that has dates surrounding it of December,
3 November.

4 MS. MOE: Yes, your Honor, all of the dates
5 surrounding the message would be after November 1, 2004. The
6 neighboring dates are November 13. There's a date in December.
7 And I think looking at the message pads as a whole, it tells us
8 they're dated essentially sequentially.

9 THE COURT: Is there any way to tell -- again, this is
10 very technical -- if it's October and November?

11 MS. MOE: Your Honor, I'd be happy to take a look at
12 physical book. I just have the sheet in front of me to see the
13 page before and after, if the Court would like to examine it.
14 Our view is the combination of the message itself and the
15 neighboring dates tell us it's November of 2004. In addition,
16 as we noted in our brief, the defendant was still traveling
17 with Epstein during this exact same time period. Again, it's
18 the defendant's burden to establish withdrawal from an ongoing
19 conspiracy, which they've not attempted to do, nor could they.
20 We think that the message pads, the flight records, the fact
21 that the testimony of a crime victim Carolyn was that the
22 conspiracy was ongoing more than meets this burden.

23 THE COURT: Okay.

24 MR. EVERDELL: Your Honor, if I could just respond to
25 that. I do pick up on what the Court is saying, and we agree

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1 with the point, which is we're focusing on the record evidence.
2 The conspiracy as charged requires there be to be a minor
3 involved. Carolyn is not a minor in 2005. Her birthday is
4 January -- I don't know if I can say that, I'm sorry, but you
5 understand it's at the beginning.

6 THE COURT: It's early.

7 MR. EVERDELL: It's early. So as of 2005, she is not
8 a minor any more. So if we're looking to the end date of the
9 conspiracy that's charged in the indictment, that does not
10 exist in 2005, and Carolyn is not a minor in 2005, that
11 evidence can't be used to support the end date of the
12 conspiracy that is charged.

13 So what we're really talking about is one message pad
14 that is undated, unverified, and not even in evidence. It's
15 not even properly authenticated. I would also point out --
16 it's not reliable, your Honor. But I would also point out that
17 I think we did have testimony that there were multiple message
18 pads going on at any one time. The surrounding message pads
19 are not a perfect indicator of when that message would have
20 been taken if it's undated. It could have been weeks, months
21 afterwards that someone decided to use that message pad to take
22 that message instead of another of message pad that was ongoing
23 at the same time. So there is no reliable credible evidence
24 that's the date of that message pad.

25 And so, your Honor, we cited a number of cases in our

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1 submission about the Court has to consider the weight and
2 reliability of the evidence when determining a factor -- a
3 sentencing factor that is going to increase the guidelines,
4 especially by the amount that this is going to increase it by.
5 And this one uncorroborated, unadmitted, unreliable message pad
6 is not sufficient for that purpose. So if we're relying on a
7 factual record argument, there is not enough of evidence in the
8 record to support that the conspiracy ended in November or
9 December of 2004. Therefore, the 2003 guidelines must apply.

10 THE COURT: Okay. I have a question about the
11 leadership enhancement, as I said, but anything else you want
12 to raise that you didn't have the opportunity to raise in your
13 papers, Mr. Everdell?

14 MR. EVERDELL: Your Honor, just one point about that
15 same book issue. I think there was a section of the
16 government's brief where they were trying to show -- this was
17 the point about the Court's discretion. We argued the Court
18 has discretion to sentence as if it were the 2003 guidelines.
19 I realize that might not be where the Court is headed, but I
20 would point out --

21 THE COURT: You mean as a variance argument.

22 MR. EVERDELL: Exactly. In that section, the
23 government made reference to an argument that the defendant was
24 receiving money into the 2007 time period. I believe they
25 pointed to \$7 million. I think that is an extreme stretch,

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1 your Honor. If the Court remembers the record evidence, there
2 was some evidence of money moving, but it was to buy a
3 helicopter that was not for her. We heard testimony from Larry
4 Visoski that he often kept assets of cars in his name for
5 Mr. Epstein. That doesn't make Larry Visoski a participant in
6 the criminal endeavors. I think it's a stretch for the
7 government to point to that as some sort of evidence of
8 continued involvement or continued profit after the end date of
9 the conspiracy. I just wanted to make that one point, your
10 Honor.

11 THE COURT: Anything on that, Ms. Moe?

12 MS. MOE: Your Honor, with respect to the financial
13 transaction, we offered that along with other evidence to
14 refute the claim that the defendant had moved on, which, as we
15 noted, is an expression that has no legal meaning. And so
16 contrary to the assertion that the defendant had moved on and
17 was no longer associated with Epstein, the trial evidence
18 established that she remained a close associate for many years,
19 and that is the purpose for which we offered that evidence.

20 THE COURT: Understood. Thank you.

21 I do want to address -- do you have other -- I want to
22 ask about 3(b)(1).

23 MR. EVERDELL: Yes, your Honor.

24 THE COURT: I think it's for the government. So as I
25 see the question here, the guidelines require me to find that

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1 the defendant was an organizer or leader, and that the criminal
2 activity either involved five or more participants or was
3 otherwise extensive. The guidelines defines a participant as a
4 person who is criminally responsible for the commission of the
5 offense but need not have been convicted.

6 So I think my question for the government is, you're
7 asking the Court to look to as a criminally responsible -- a
8 person who is criminally responsible for the commission of the
9 offense over whom Ms. Maxwell exercised supervisory or
10 leadership role.

11 MS. MOE: Yes, your Honor. As we noted in our
12 briefing, our view is that the trial evidence establishes that
13 the defendant had a supervisory role over Sarah Kellen. Here,
14 we're not required to establish that there were five or more
15 participants; that is, people who were criminally responsible
16 for the charged conduct, but rather that it was extensive, and
17 that the defendant supervised at least one other person.
18 That's the text of the commentary, although as we noted, the
19 Second Circuit in applying this factor hasn't really engaged
20 with that from what we can tell, but on the factual question of
21 the trial record and whether it establishes the defendant
22 supervised another participant, it absolutely does.

23 THE COURT: And the government is pointing to Sarah
24 Kellen for that conclusion, which you agree, there has to be
25 one criminally responsible participant who we can point to.

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1 MS. MOE: Yes, your Honor. Looking at the text of the
2 application note -- again, it's unclear from some case law on
3 this, but under the text of the application note, if we're
4 looking to one criminal participant, we would direct the
5 Court's attention to Sarah Kellen.

6 THE COURT: And the leadership over her as opposed to
7 Epstein being the leader over her or them being -- Kellen sort
8 of replacing the defendant's role, could you focus my mind on
9 what specifically you point to to show supervision and
10 leadership by Ms. Maxwell over Ms. Kellen.

11 MS. MOE: Yes, your Honor.

12 The trial evidence was that Sarah Kellen became an
13 assistant, and that she worked for both Maxwell and Epstein.
14 Essentially, when you look at defendant's role in earlier
15 years, she was doing things like calling victims and arranging
16 for massage appointments. As the scheme shifted, they brought
17 in another member of the scheme beneath them in the structure
18 and hierarchy of the scheme. The defendant remained a close
19 associate. She was often traveling with them, often traveling
20 with Kellen together. So as Kellen took on some of the tasks
21 that were then delegated to a lower member of the conspiracy,
22 the defendant was higher up in the leadership structure.

23 There wasn't direct evidence about, you know, the
24 defendant directly instructing Kellen to make a certain phone
25 call, and we acknowledge that, but we think the inference is

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1 very clear that when you have two knowing conspirators, Maxwell
2 and Epstein, and they bring in a much younger woman as an
3 assistant and have her take on some of those roles while the
4 defendant remains a lady of the house in the hierarchy of the
5 structure to whom a person like Sarah Kellen would report, that
6 she has leadership of that person; that she is directing that
7 person; that she has control. Even the simple task of
8 directing her to take on some of those responsibilities, which,
9 of course, to transition parts of that role she would have to
10 do would qualify for leadership.

11 THE COURT: And there's clear time overlap in the
12 role?

13 MS. MOE: Yes, your Honor. As we noted in our brief,
14 the flight records reflect that the defendant continued flying
15 on Epstein's private jet at the same time that Sarah Kellen was
16 also traveling, and that there was an overlap in the years of
17 the time period where they were all close associates of Jeffrey
18 Epstein and the scheme was ongoing.

19 THE COURT: Go ahead.

20 MR. EVERDELL: Yes. Your Honor, before I address the
21 Sarah Kellen point, I would just make the point that the
22 government seems to argue that there is some case law that is
23 not clear that you don't have to necessarily show that they're
24 supervising another criminal participant. That's just wrong.
25 All those cases that the government cites, the issue has

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1 already been decided or conceded by the defendant. The court
2 found they were leader or the defendant didn't contest that, so
3 the issue was only about whether the criminal activity was
4 otherwise extensive. So that is not -- that is clear under
5 Second Circuit law, that they have to supervise another
6 criminal participant, and it's clear from the guidelines too,
7 as the government concedes.

8 Let's just talk a bit about Sarah Kellen. I don't
9 think it is a fair inference to say from the trial record that
10 Ms. Maxwell was supervising Sarah Kellen. In fact, the
11 inference is exactly the opposite. And you can rely on
12 Carolyn's testimony alone for that; that she herself testified
13 that there was a clear break between when she says that
14 Ms. Maxwell was calling her to schedule for massage
15 appointments versus when Sarah Kellen took over and scheduled
16 for massage appointments. They did not overlap. There was a
17 break. That is corroborated by Juan Alessi no less, who said
18 the same thing. He said Sarah Kellen came at the end of my
19 employment, to his recollection, and as soon as she got there,
20 she took over the responsibility of scheduling the massage
21 appointments. Again, a clear break.

22 What the record shows is that there was a replacement.
23 Sarah Kellen replaced Ms. Maxwell, at least according to the
24 trial testimony; not that there was some sort of ongoing
25 supervision by Ms. Maxwell over Sarah Kellen. It couldn't be

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1 clearer, your Honor, this notion that she was somehow -- Sarah
2 Kellen was an assistant of both Epstein and Maxwell is again
3 belied by the trial record.

4 If you look at Larry Visoski's testimony, which I
5 believe is what the government is relying on there, he
6 originally testified, oh, I think she was an assistant for
7 both. But on cross-examination, he conceded that he really
8 didn't know what her role was, and his best recollection was
9 that she was an assistant for Epstein.

10 And again, just look again at Cimberly Espinosa's
11 testimony who was the actual assistant for Ms. Maxwell, and she
12 says unequivocally, "I was her assistant. Kellen was Epstein's
13 assistant." So there is no fair inference that Ms. Maxwell was
14 supervising Sarah Kellen. The inference is exactly the
15 opposite, and it can't provide a basis for that leadership
16 enhancement.

17 THE COURT: All right. Anything further on the
18 enhancements for the government's objection?

19 MS. MOE: Your Honor, just very briefly with respect
20 to the leadership question, I just want to direct the Court's
21 attention, we noted this on page 27 of our brief, but the
22 testimony at trial was that Carolyn recalled that even after
23 Sarah Kellen took over calling to schedule massages, Maxwell
24 was still present inside the Palm Beach residence when Carolyn
25 arrived for massage appointments.

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1 With respect to the testimony of the pilots who
2 testified, whether they -- whether an employee was paid by
3 Maxwell or Epstein or technically reported to one, according to
4 their job descriptions, is not the question here. The fact
5 that pilots based on their observation thought at one point
6 that Kellen reported to Maxwell proves the point that she had
7 supervisory authority over Kellen and exercised it, whether in
8 the chain of command or on their formal employment paperwork,
9 she was just an employee for one or the other, it makes no
10 difference. There was an overlap here. They had different
11 roles in the conspiracy, and the defendant had a supervisory
12 roll over Kellen.

13 MR. EVERDELL: Your Honor, just to that point. Being
14 present does not mean that you're a supervisor. That's way too
15 far a stretch. So the fact that there was testimony she was
16 present still in the house while Kellen was making the calls
17 and scheduling the massage appointments means nothing in terms
18 of supervisory authority.

19 THE COURT: Thank you. Other enhancements before the
20 government's objection is to be addressed.

21 MS. MOE: No, your Honor. Thank you.

22 MR. EVERDELL: Your Honor, I assume you don't want to
23 hear or have any questions about the five-point enhancement for
24 repeated and dangerous sex offenders.

25 THE COURT: I believe I have what I need, but as I

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1 said, I don't need repetition of the arguments in the papers,
2 but if there is any additional points you want to make, you're
3 welcome to.

4 MR. EVERDELL: Your Honor, just one point. I will be
5 brief. The government in its papers makes the argument that
6 the background commentary can't be relied upon as authoritative
7 because it is not explanatory or interpretative of what the
8 guideline is. I think that is incorrect.

9 It is not simply a recitation of what Congress was
10 considering. That first sentence or two which talks about how
11 this guideline can only be applied to offenders who represent a
12 continuing danger to the community is interpretative of what
13 the guideline is. The title of the guideline is repeat and
14 dangerous sex offenders. That explanatory commentary explains
15 how to interpret what dangerous means. It means someone who is
16 continuously dangerous to the community, not someone who's
17 never been accused of a crime in the 18 plus years since the
18 crime in this case, and has never been accused of re-offending.
19 So I don't agree with that point. This is authoritative
20 guidance from the Sentencing Commission, and the Court should
21 consider it as such. Thank you.

22 THE COURT: Ms. Moe, do you want to respond?

23 MS. MOE: No, your Honor. We rest on our briefing on
24 this issue, but thank you.

25 THE COURT: Thank you. Anything else?

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MR. EVERDELL: No, your Honor. We rest on the papers.

THE COURT: I thank you counsel for your thorough briefing. I am prepared to rule.

The defendant raises four objections to the calculation of the guideline range contained in the PSR. As we discussed, first, she argues I must apply the 2003 guidelines rather than the 2004 guidelines. Beyond that, she objects to the application of three sentencing enhancements. The government's sole objection to the calculation of the guidelines is that Virginia Roberts and Melissa should be considered victims. So I will address the defense objections and then the government's objections.

I begin by determining which of the Guideline manuals apply. Generally, a sentencing court applies the version of the guidelines in effect on the date that the defendant is sentenced. 18 U.S.C. Section 3553(a)(4)(A)(ii). But the *Ex Post Facto* Clause is violated if a defendant is sentenced under Guidelines issued after she's committed her offense and the new Guidelines provide a higher sentencing range than the version in place at the time of the offense. That's the principle of a case called *Peugh v. United States*, 569 U.S. 530 (2013). In that case, a sentencing court must -- in the case of a higher range at the time of sentencing than in place at the time of the offense, in that case the sentencing court must apply the guidelines in effect when the offense was committed.

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1 *United States v. Guerrero*, 910 F.3d 72 (2d Cir. 2018). Here,
2 the parties and the probation department agree that applying
3 the current Guidelines would result in a significantly longer
4 sentence than the application of the guidelines in place when
5 the defendant committed her offense, whether that is the 2003
6 or 2004 guidelines.

7 The controlling date for ex post facto purposes is the
8 last date of the offense of conviction. The 2004 Guidelines
9 became effective on November 1, 2004. So I must determine if
10 the last date of the offense was after November 1, 2004.

11 Because it seeks an increased punishment, the
12 government bears the burden of persuasion. The government
13 charged a decade-long conspiracy of sexual abuse that the
14 indictment alleged ended in 2004. It's proof at trial that the
15 conspiracy continued in 2004 related to Carolyn. And the
16 charged conspiracy had to end no later than very early 2005
17 because that's when Carolyn turned 18 and can no longer be
18 deemed a victim of the federal sex-trafficking offense charged
19 which proscribes conduct with respect to individuals under the
20 age of 18. So the government purports to carry its burden on
21 this issue based on portions of Carolyn's testimony and some
22 message pads regarding what occurred in 2004 and 2005.

23 Let me state clearly, I found, as I said repeatedly in
24 my factual conclusions on the PSR objections, I found Carolyn
25 to be a credible witness, as did the jury. The question before

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1 me is specific and highly technical. Does the preponderance of
2 the evidence demonstrate that the offense to sex traffic
3 Carolyn continued after November 1, 2004 before she turned 18
4 in early 2005? In other words, does a preponderance of the
5 evidence establish that acts in furtherance of the conspiracy
6 to traffic Carolyn occurred in either November or
7 December 2004? Although Carolyn testified regarding contact
8 earlier in 2004 and after she turned 18 in 2005, there is no
9 evidence, either in the form of testimony or documentary
10 evidence, including the message pads, that demonstrates by a
11 preponderance of the evidence conspiratorial conduct during
12 those last two months of 2004 before Carolyn turned 18 in 2005.

13 In those portions of Carolyn's testimony cited by the
14 government, Carolyn stated that she was 18 years old the last
15 time she went to Epstein's house, which would have been in
16 2005. As Carolyn further explained, she returned more than
17 four or five times to Epstein after she gave birth to her son
18 in March of 2004, and that testimony is supported by message
19 pads entered at trial that show Carolyn called Epstein several
20 times in the summer of 2004: Once in late April or early May
21 again on July 6, and again on July 30. When she did return to
22 Epstein, Carolyn testified Epstein asked if she had younger
23 friends, and she explained during her testimony that at 18
24 years old, she was too old for him. Carolyn wasn't asked, and
25 her testimony doesn't specifically address, whether she went to

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1 Epstein's house after November 2004 before she turned 18.
2 Message pads entered at trial show contact only before
3 November 1.

4 The government's reliance on two additional pads that
5 were not entered into evidence doesn't change my analysis. The
6 first message GX-4B, it's undated, and the context does not
7 give sufficient confidence that it came after November 1. The
8 other message pad is dated March 1, 2005, which falls outside
9 the scope of the conspiracy alleged in the indictment, and
10 after Carolyn turned 18. Because I cannot on this record find
11 by a preponderance of the evidence that the offense continued
12 during that two-month window after November 1, 2004, and before
13 early 2005, I must apply the 2003 guidelines. Because I find
14 that the date of the offense was not after November 1, 2004, I
15 do not address the defendant's alternative argument that a jury
16 must decide if the 2004 Guidelines apply.

17 Within the Guidelines themselves, the defendant
18 objects to the application of three enhancements in the PSR.
19 She takes issue first with 4B1.5(b). The enhancement
20 statements that the offense level is increased by five if:
21 One, the offense of conviction is a covered sex crime; two,
22 4B1.5(a) for prior convictions does not apply; three, the
23 defendant engaged in a pattern of activity involving prohibited
24 sexual conduct. All three requirements are met: The defendant
25 was convicted of a covered sex crime; she was not previously

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1 convicted of a sex crime; and I readily find she engaged in a
2 pattern of activity involving prohibited sexual conduct.
3 Specifically, the Guidelines define a pattern of such activity
4 as the defendant engaging in prohibited sexual conduct with a
5 minor on at least two separate occasions.

6 The defendant doesn't contest any of these enumerated
7 requirements. Rather, she argues that I may apply this
8 enhancement only if I further find that the defendant poses a
9 continuing danger to the public. Here, the defense draws this
10 requirement from background commentary by the Sentencing
11 Commission and a few statements made by members of the Congress
12 who of emphasized high recidivism rates in enhancing sentences
13 for sex offenders.

14 I overrule this objection because it lacks any basis
15 in the Guidelines. As with all interpretive matters, I start
16 with the text of the Guidelines. If the text is unambiguous, I
17 apply it as written and do not resort to background commentary.
18 *United States v. Sash*, 396 F.3d 515 (2d Cir. 2005). Commentary
19 cited by the defendant simply provides policy rationale for a
20 particular enhancement. It does not purport to interpret the
21 Guidelines and so is not binding. Nor can scattered
22 legislative history override the clear text of the Guidelines,
23 especially when that history amounts to only a few short floor
24 statements which are "among the least illuminating forms of
25 legislative history." *NLRB v. SW General, Inc.* 137, S. Ct. 929

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1 (2017).

2 Moreover, the defendant fails to prove that 4B1.5(b)
3 was enacted only to prevent future danger to the public.
4 Background commentary explains that aside from recidivism,
5 Congress "directed the Commission to ensure lengthy
6 incarceration for offenders who engage in a pattern of activity
7 involving the sexual abuse or exploitation of minors." That's
8 4B1.5 comment background.

9 Further, the legislative history quoted by the
10 defendant says that Congress increased Guidelines sentences for
11 sexual abuse of minors "to address the egregiousness of these
12 crimes." And, in fact, the defendant's brief cites that I
13 believe at 12. Thus, I find no basis for a requirement that I
14 must first find the defendant to be a public danger before
15 applying the enhancement. The defendant's remaining argument
16 that applying this enhancement would result in an excessive
17 sentence is appropriately considered as part of the defendant's
18 request for a downward variance.

19 Next the defendant objects to the application
20 3B1.1(a), which we've discussed, which adds four offense levels
21 for her leadership role in a criminal activity. "a court must
22 make two specific factual findings before it can properly
23 enhance a defendant's offense level under 3B1.1(a): (i) that
24 the defendant was an organizer or leader; and (ii) that the
25 criminal activity involved five or more participants or was

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1 otherwise extensive." Quoting from *United States v. Patasnik*,
2 89 F.3d 63 (2d Cir. 1996). The Guidelines define a participant
3 as a person who is criminally responsible for the commission of
4 the offense, but need not have been convicted. That's Section
5 3B1.1, comment note 1. And in assessing whether criminal
6 activity is extensive, all persons involved during the course
7 of the entire offense are to be considered, including persons
8 who provided services unknowingly. Comment note 3.

9 The defendant argues that she did not lead another
10 criminal participant. I overrule this objection because I do
11 conclude that the government has proved by a preponderance that
12 the defendant supervised Sarah Kellen, who was a knowing
13 participant in the criminal conspiracy.

14 Larry Visoski and David Rodgers both testified for
15 that at least part of the time period at issue Sarah Kellen
16 acted as a personal assistant to the defendant. I credit that
17 testimony which is corroborated by further testimony that the
18 defendant was Epstein's number two and the lady of the house.
19 At some point, Kellen took over some of the defendants duties.
20 But even after that time, the defendant retained her leadership
21 position, as evidenced by Carolyn's testimony, by flight
22 records in evidence, and the household manual in evidence. I
23 do conclude by a preponderance of the evidence that the
24 defendant led a criminally responsible participant.

25 I further find that the defendant's criminal activity

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1 was extensive. Whether criminal activity is extensive is based
2 primarily on the number of people involved, criminally and
3 noncriminally, rather than on other possible indicators of the
4 extensiveness of the activity. District courts must determine
5 the number of knowing participants in the criminal activity,
6 the number of unknowing participants whose activities were
7 organized or led by the defendant with specific criminal
8 intent, and the extent to which the services of the unknowing
9 participants were peculiar and necessary to the criminal
10 scheme. For example, a taxi driver that drives a defendant to
11 a crime scene would not count. That is an example from a case
12 called *Carrozzella*, 105 F.3d at 804.

13 At all relevant times, the conspiracy proved at trial
14 included at least two knowing participants: Epstein and the
15 defendant. Beginning in 2002, Sarah Kellen joined, and
16 beginning in approximately 2001, additional minor victims were
17 recruited through Virginia and Carolyn. Additionally, trial
18 evidence established that services were unknowingly provided by
19 various Epstein employees. For example, I credit Juan Alessi's
20 testimony that following the defendant's instructions, he
21 scheduled massage appointments, set up the massage table for
22 appointments, cleaned up after sexualized massages, and on at
23 least one occasion drove Virginia to an appointment.

24 Additionally, both Visoski and Rodgers were employed
25 as Epstein's pilots over the same time period as the counts of

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1 conviction. Visoski testified that Maxwell partially owned the
2 jet, and both pilots testified that she would tell them when to
3 fly Epstein or schedule flights for herself. The evidence at
4 trial demonstrates that Epstein and the defendant had the
5 pilots fly victims of the conspiracy. Across the timeframe of
6 all counts of conviction, Alessi, Visoski and Rodgers provided
7 personalized services that were peculiarly tailored to the
8 defendant's offenses and were not fungible services generally
9 available to the public. Again, I'm citing from the
10 *Carrozzella* case, 105 F.3d at 804.

11 In addition to these unknowing participants that
12 testified at trial, I find by a preponderance of the evidence
13 that there were other unknowing persons led by Maxwell. As
14 Epstein's number one, Ms. Maxwell managed Epstein's numerous
15 households and interviewed, hired and oversaw the household
16 staff. The defendant had her own personal assistants, like
17 Sarah Kellen and another individual. From the record, I can't
18 determine the precise number of these other individuals that
19 unknowingly assisted Epstein and the defendant in their
20 criminal activity, but I find an adequate basis in the record
21 that the number is sufficient to make the activity extensive
22 within the meaning of 3B1.1(a) from 1994 to 2004. See *United*
23 *States v. Archer*, 671 F.3d 149 (2d Cir. 2011).

24 Last, the defendant objects to enhancement
25 2G1.1(b)(4)(B). That provision increases the offense level by

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1 two if a participant unduly influenced a minor to engage in a
2 commercial sex act. In defining the enhancement, the
3 Commission instructs courts to closely consider the facts of
4 the case to determine whether a participant's influence over
5 the minor compromised the voluntariness of the minor's
6 behavior. 2G1.1, comment note 7. And if the participant is at
7 least ten years older than the minor, there is a rebuttable
8 presumption that the participant unduly influenced the minor to
9 engage in a commercial sex act. I overrule the defendant's
10 objection.

11 The defendant first says the undue influence
12 enhancement would punish her for the same harm already counted
13 in her base offense level. Impermissible double counting
14 occurs when a guideline enhancement is applied to reflect the
15 kind of harm that's already fully accounted for elsewhere in
16 the Guidelines but does not occur if the enhancement aims at
17 differing harms emanating from the same conduct or reflects
18 different facets of the defendant's conduct. *United States v.*
19 *Watkins*, 667 F.3d 254 (2d Cir. 2012). There isn't double
20 counting here. The 2G1.1(a) base offense level reflects the
21 aggregating factor that the victim of the defendant's sex
22 offense was a minor. The enhancement, by contrast, reflects
23 the use of undue influence to engage in a commercial sex act.
24 I'll cite a few cases that stand for that proposition,
25 including *United States v. Kohlmeier*, 858 F. App'x, 444 (2d

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1 Cir. 2021) (summary order). Similar conclusion, *United States*
2 *v. Smith*, a Ninth Circuit case from 2013, 719 F.3d 1120. That
3 case explains 2G1.3(a) base offense level and the undue
4 influence enhancement "serve unique purposes under the
5 Guidelines."

6 The defense argues that because the enhancement
7 applies only if undue influence was exerted with the aim of a
8 commercial sex act, it does not apply here. But the jury in
9 Count Six did convict the defendant of sex trafficking Carolyn
10 to participate in commercial sex acts. The Court finds that
11 Virginia Roberts, who brought Carolyn and Melissa who was
12 brought by Carolyn similarly were paid. The remaining victims,
13 including Jane and Annie, also testified that they received
14 money and gifts during their abuse which satisfies the
15 enhancement.

16 The defendant argues Carolyn was not unduly influenced
17 to sexually massage Epstein. I find this argument meritless.
18 The age gap between Carolyn and Epstein and the defendant far
19 exceeded ten years, and the defendant does not rebut the
20 resulting presumption of undue influence. 2G1.1, comment note
21 7. Carolyn testified she was paid to give Epstein sexualized
22 massages, and she needed the money for her drug addiction.
23 Later, Carolyn returned to Epstein because she needed the money
24 for herself and her newborn son. Plainly, taking advantage of
25 a victim's financial need is a form of undue influence. I'll

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1 cite some cases for that proposition. *Watkins* 667 F.3d at 265;
2 *United States v. Streb*, 36 F.4th 782. That's and Eighth
3 Circuit case from 2022. Courts have repeatedly concluded that
4 a minor can be the victim of undue influence even if the minor
5 initiates a sexual meeting. See, for example, *United States v.*
6 *Lay*, 583 F.3d 436 (6th Cir. 2009). I therefore overrule the
7 defendant's objection.

8 I next turn to the government's only objection to the
9 PSR Guideline calculation. I do find that Virginia Roberts and
10 Melissa were minor victims of sex offenses -- they were
11 trafficked and abused by the defendant and Epstein during the
12 charged period. The Guidelines require that each minor victim
13 be considered a separate count of conviction. 2G1.1.(d)1.
14 Probation department excluded Virginia and Melissa from this
15 provision only because they were not named in the indictment.
16 This is an incorrect basis for excluding them from the
17 calculation. Relying on commentary by the Commission, the
18 Second Circuit has instructed "that conduct against victims
19 other than those charged in the indictment may constitute
20 relevant conduct, and, if such conduct qualifies, should be
21 treated for sentencing purposes as though it occurred in a
22 separate count of conviction." *United States V. Wernick*,
23 691, F.3d 108 (2d Cir. 2012) (citing 2G1.1 comment note 4). I
24 therefore consider Virginia and Melissa as two additional
25 groups of victims and assign each a unit under Section 3D1.4.

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1 Having resolved the parties' objections, I will
2 calculate the Guideline range. As explained, I will use the
3 2003 Guidelines manual. Following Section 2G1.1(d)(1), each
4 victim is considered a separate count of conviction. In
5 addition to the three victims for which an offense level was
6 calculated in the PSR -- Jane, Annie, and Carolyn -- I
7 calculate offense levels, for Virginia and Melissa, coming to a
8 total of 5 groups.

9 For all groups, the base offense level is 19. That's
10 Sections 2G1.1(a) and 2X1.1(a).

11 For Jane and Carolyn, because they were older than 12
12 but were not yet 16 when abuse began, the offense level is
13 enhanced by 2. 2G1.1(b)(2)(B).

14 The offense level for Jane and Carolyn is further
15 enhanced by 2 because they were unduly influenced into a
16 commercial sex act. 2G1.1(b)(4)(B).

17 For Annie, Virginia, and Melissa, who were at least
18 16, the offense level is increased by 2 because they were
19 unduly influenced into a commercial act. 2G1.1.(b)(4)(B).

20 The offense level for all groups are also enhanced by
21 4 points because of the supervisory role in an extensive
22 criminal activity. 3B1.1(a).

23 This brings the total offense level for Jane's and
24 Carolyn's groups to 27. And Annie's, Virginia's and Melissa's
25 groups each to 25.

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1 Because there are multiple counts, all within at least
2 four offense levels of each other, I determine 5 units under
3 3D1.4(a). And under 3D1.4, 5 units increases the total offense
4 level of the group with the highest total offense level by 5
5 from 27 to 32.

6 Last, because the defendant engaged in a pattern of
7 activity involving prohibited sexual conduct, the total offense
8 level is increased by 5 from 32 to 37. 4B1.5(b)(1).

9 In conclusion, I find the correct total offense level
10 under the 2003 Guidelines is 37.

11 No party disputes the defendant's Criminal History
12 Category of I.

13 Under the 2003 Guidelines, a Criminal History Category
14 of I and total offense level of 37, produces a guideline range
15 of 210 to 262 months' imprisonment.

16 The range for the fine, again, under the 2003 manual
17 is \$20,000 to \$200,000 for each count. That's 5E1.2(c)(3).

18 The range for supervised release is three years to
19 life. 5D1.2(a)(1) and (c) and 18 U.S.C. 3583(k), although I
20 believe there is a -- yeah, I think that's supervised release.

21 I don't want to hear repeated objections, but any
22 objections based on anything I said that is new?

23 MS. MOE: Yes, your Honor. With respect to the unit
24 analysis, we wanted to note that under 3D1.4, a total of 5
25 units adds 4 levels, not 5 levels. I think the next layer on

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1 the table is more than 5, as 5 levels. And, thus, the total
2 number would be 36.

3 THE COURT: I presume you agree with that,
4 Mr. Everdell?

5 MR. EVERDELL: Yes, your Honor.

6 THE COURT: Under the 2003 manual -- I see. The
7 highest total offense level, increase by 4 from 32 to 36.

8 MS. MOE: Yes, your Honor. Thank you.

9 THE COURT: Thank you, Ms. Moe. And that produces a
10 guideline range 188 to 235.

11 MS. MOE: Yes, your Honor.

12 MR. EVERDELL: We agree with that, your Honor.

13 THE COURT: Thank you. Same question to you,
14 Mr. Everdell. Preserving your objections, of course, but
15 anything new based on what I said?

16 MR. EVERDELL: Yes, your Honor. I don't think because
17 the government's response was the one added their request to
18 add Virginia and Melissa as separate groups, so we do object to
19 that. I know the Court has already ruled on that. We don't
20 think the record is adequate to make them separate offense
21 groups. I understand the Court has already ruled on that, but
22 we would like to preserve that objection.

23 THE COURT: Understood. Thank you.

24 Do you want to respond, Ms. Moe?

25 MS. MOE: Your Honor, I think the Court's rulings

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1 addressing the factual objections speak directly to this issue.
2 The record at trial amply established that Melissa and Virginia
3 were victims of this conspiracy, and that the defendant had
4 been involved with recruiting Virginia, who in turn recruited
5 Carolyn, who in turn recruited Melissa.

6 With respect to Melissa in particular, we would not
7 that, like Virginia, her name appears in the defendant's little
8 black book, noting that she's a friend of Carolyn's. For all
9 those reasons, and the reasons in our brief, we think the trial
10 record amply establishes that they were both victims of the
11 conspiracy.

12 THE COURT: I agree with that, and for the reasons
13 indicated, do -- I agree with the government's objection to the
14 probation calculation for that reason.

15 I think that means we don't need to resolve the
16 factual objections that pertain to Carolyn's age. As I said, I
17 credit Carolyn's testimony. The objections I would overrule
18 because I think she accurately testified regarding her age both
19 in 2004 and 2005, but it doesn't answer the question, as I see
20 it, the legal question as to establishment of acts
21 conspiratorial conduct in the relevant two-month period.

22 With respect to fines, Mr. Everdell, what is now
23 paragraph 172 of the revised report, the defendant objects to
24 the inclusion a \$10 million bequest from Epstein being included
25 in her assets for purposes of determining her ability to pay a

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1 fine. I can't quite tell from the papers whether -- I know you
2 say the bequest is likely to be contested. What is the current
3 status of the bequest?

4 MR. EVERDELL: Your Honor, my understanding is that
5 the document says what it says, and the estate is undergoing
6 bankruptcy proceedings. I don't believe there is any -- this
7 issue has been addressed because I think the estate is still
8 dealing with victims' claims and other claims against the
9 estate. But because it's in bankruptcy, I assume that this
10 will be contested, and we don't know if there will be any money
11 left at the end of that proceeding to honor the bequest. So
12 that's one of the many reasons why I think this is such a
13 tenuous asset that it shouldn't be considered for purposes of
14 fines.

15 THE COURT: It's listed as an asset in the financial
16 affidavit, is it not?

17 MR. EVERDELL: It is, your Honor, because we felt we
18 wanted to fully disclose everything we know about, and we do
19 know about simply because we were produced that document. We
20 didn't know about it before. We knew about it because we got
21 it in discovery, and we saw it was there, so we felt in good
22 faith, we had to list it or at least disclose it, but I don't
23 think it should be considered for purposes of fine.

24 THE COURT: Ms. Moe, do you want to respond to that?

25 MS. MOE: Your Honor, I don't have additional

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1 information about the status of the estate. With respect to
2 whether this information should be in the PSR, I think the
3 Court is exactly right. This is listed on an asset on her
4 balance sheet. Whether she ultimately recovers that amount or
5 not, it's listed in the same way that liabilities are listed
6 even though it may be uncertain as to how those are resolved.
7 So I don't think the objection is founded.

8 THE COURT: Yes, I'm going to overrule this objection
9 to the PSR paragraph. It is included as an asset in
10 Ms. Maxwell's financial aid affidavit. The uncertain assertion
11 that she may lose the asset is not a basis to exclude it from a
12 considered asset for purposes of determining a fine.

13 Paragraph 178, the assertion here is that she is
14 unable to pay a fine.

15 Do I have that right, Mr. Everdell?

16 MR. EVERDELL: Yes, your Honor.

17 THE COURT: I overrule the objection. Section
18 5E1.2(a) of the Guidelines requires the Court to impose a fine
19 in all cases except where the defendant establishes that she is
20 unable to pay and is not likely to become able to pay any fine.
21 The defendant has failed to establish this. As I just noted,
22 there is a \$10 million bequest from Epstein this is in addition
23 to other assets noted in the PSR.

24 I will say the assets and finances have been a moving
25 target. In July 2020, Ms. Maxwell reported \$3.8 million in

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1 assets, and then reported \$22 million in assets in support of
2 the December 2020 bail application. The claim now of an
3 inability to pay the fine, as I understand it, at the same time
4 in which the defense has not provided documentation of her
5 marriage or the purported pending divorce settlement. So I am
6 unpersuaded based on the balance of facts that the defendant is
7 indigent, and I do intend to impose a fine.

8 I will address restitution at the end. I understand
9 the government is not seeking restitution. So we will pick
10 that up at the end.

11 All right. With that, I'm going to take a break, and
12 then I will come back and hear from -- just fill a few
13 formalities. Neither of the papers make an argument for formal
14 downward departures, as I understood them. In any event, I've
15 considered whether there's an appropriate basis for departure
16 from the advisory range within the Guideline system and do not
17 find any grounds warranting departure under the Guidelines.

18 When we return with the Guideline calculation
19 complete, I will hear from the parties as to what they contend
20 a reasonable sentence is for Ms. Maxwell, taking into account
21 the 3553(a) factors.

22 It's 12:30, which is a shocking fact to me. I suppose
23 we should take a 30-minute break so that everyone can get
24 lunch, as I imagine we still have a fair amount of matters to
25 discuss and time to get through. So we'll take a 30-minute

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1 break.

2 Ms. Moe

3 MS. MOE: With respect to the sequence of events, just
4 so victims are aware, would the Court prefer to hear from
5 victims before the Court hears from the parties or after? We
6 defer to the Court, but it would be helpful to know for the
7 victims.

8 THE COURT: I was anticipating government, victim
9 statements, defense counsel and then Ms. Maxwell if she wishes
10 to make a statement. My staff did provide counsel for the
11 victims making statements an order in which they're speaking.

12 MS. MOE: Thank you, your Honor.

13 THE COURT: Any objection to that ordering, Ms. Moe?

14 MS. MOE: No, your Honor. Thank you.

15 THE COURT: Ms. Sternheim?

16 MS. STERNHEIM: I'm on now. No. Thank you.

17 THE COURT: I'll see you at 1:00. Thank you.

18 (Luncheon recess taken)

19 (Continued on next page)

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AFTERNOON SESSION

1:10 p.m.

THE COURT: As I indicated, I'll hear first from the government as to what a reasonable sentence is under the 3553(a) factors.

Ms. Moe, when you're ready.

MS. MOE: Thank you, your Honor. May I take the podium?

THE COURT: You may. Thank you.

MS. MOE: Your Honor, Ghislaine first met Jane at summer camp in August of 1994. Jane was 14 years old. What Maxwell did in the years that followed to Jane and Kate and Annie and Virginia and Carolyn and Melissa, was almost unspeakable, but the truth came out in this case; and while many years have past, their pain is palpable, it's real, and it matters.

Today we ask the Court to impose an above-guideline sentence of multiple decades in prison, a sentence that holds Maxwell accountable for the essential role she played in an extensive and disturbing child exploitation scheme.

Maxwell trapped young girls in a horrifying nightmare. Her victims were vulnerable kids who found themselves alone in giant mansions where they were sexually exploited by adults they thought would help them. These girls were just kids. They were just finding their way in the world, trying to figure

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1 out who they were and who they might be some day when they grew
2 up. These kids had hopes and dreams for their future and the
3 defendant used those dreams as her tool to abuse them.

4 We ask the Court to take an unflinching look at the
5 defendant's actions and consider what that tells you about who
6 she really is. What kind of person persuades young girls to
7 massage the feet of a middle-aged man? What kind of person
8 gets a 16-year-old girl all alone at a ranch in the middle of
9 nowhere and tells her to take off her clothes and get on a
10 massage table so that she can grope that girl's chest? What
11 kind of person teaches a 14-year-old girl how a middle-aged man
12 likes his penis to be touched? What kind of person sees a
13 17-year-old girl on the street and pulls over so that she can
14 persuade that girl to come to a house of horrors where that
15 young girl will be trafficked for sex? What kind of person
16 flies around on a plane with underage girls so that when her
17 boyfriend travels, he always has a young girl to touch? What
18 kind of person would use their privilege, their power in this
19 world to intentionally prey on the vulnerable, young girls from
20 struggling families: Girls without fathers, girls who needed
21 help. These are the actions of a person who was indifferent to
22 the suffering of other human beings.

23 The defendant's actions were not a one-time mistake;
24 not at all. Maxwell was an adult woman, and she made the
25 choice, week in, week out for years to commit crimes with

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1 Jeffrey Epstein, to be his right hand, to make his crimes
2 possible. Those choices were hers, and they have to have
3 serious consequences.

4 What's more, her actions portrayed a disturbing view
5 of the world we live in. To Maxwell there were two kinds of
6 people in this world: The people who really mattered and the
7 people who were disposable. Maxwell wanted to make sure that
8 she stayed among the people who she thought mattered. She
9 wanted to live a luxurious lifestyle jet-setting around the
10 world. She took millions of dollars from Epstein over the
11 years and that's because they were predators together, they
12 were partners in crime together, and they molested kids
13 together.

14 The defendant's actions had serious consequences for
15 her victims. These girls, now women, are strong. They have
16 shown the world what true bravery really is. But when the
17 defendant preyed on them, they were just kids, and they'll
18 carry with them for their entire lives the trauma of what
19 they've experienced. What is truly remarkable about this case,
20 your Honor, is that we don't have to speculate about the
21 lasting irreparable harm that the defendant's actions have had.
22 You have seen for yourself the devastating effects of the
23 defendant's crimes and how much her actions have affected her
24 victims even years later.

25 The defendant has shown absolutely no remorse for her

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1 crimes. She has not owned up to the truth. She has lied
2 repeatedly. She has been dishonest with the Court, and she has
3 made misrepresentations when it suits her. Your Honor, we
4 recognize that the Court has calculated the guidelines to be
5 188 to 235 months. That is far below the sentence that the
6 government believes is appropriate in this case. We recognize
7 that there are a small number of cases where the Court imposes
8 an above-guideline sentence. This is that case, your Honor.

9 In the almost 20 years since the 2003 manual was
10 enacted, our Sentencing Commission, our Congress, and our
11 country have all recognized just how serious sex crimes against
12 children are. Our country now recognizes how woefully
13 inadequate the 2003 guidelines were, and the Supreme Court has
14 expressly held that sentencing courts can vary upwards for
15 exactly that reason. Again, this is that case. This is
16 exactly that case. This is the time to impose an
17 above-guideline sentence. A guideline sentence in this case
18 would create unwarranted sentencing disparities with
19 individuals being sentenced today for sex-trafficking offenses.
20 This case calls out for an above-guideline sentence because of
21 the breathtaking scope of the defendant's conduct, the length
22 of her crimes, the number of victims, the vulnerability of her
23 victims, the sophistication of the defendant's predatory
24 conduct and the degree to which she psychologically manipulated
25 her victims. Her conduct was shockingly predatory, and it

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1 calls out for an above-guideline sentence.

2 We ask the Court to impose an above-guideline
3 sentence, a sentence that sends a message that those who would
4 conspire with sexual predators would be held responsible for
5 their significant role in these crimes. We ask the Court to
6 send a message that nobody is above the law, and nobody is too
7 rich or powerful to be held accountable. We ask the Court to
8 send a message that it is never too late for justice.

9 Your Honor, you should not hesitate to hold the
10 defendant accountable for the full measure of her crimes. She
11 deserves to spend decades in prison for her crimes. Thank you.

12 THE COURT: Thank you, Ms. Moe.

13 And I will ask that the individuals who are making
14 statements come to the podium.

15 Ms. Farmer is first. You're welcome to remove the
16 mask when you get there, Ms. Farmer, if you'd like.

17 MS. FARMER: Judge Nathan: For a long time I wanted
18 to erase from my mind the crimes that Ghislaine Maxwell and
19 Jeffrey Epstein committed against me and pretend they hadn't
20 happened. It was the type of dark memory that feels safest to
21 keep locked away. But I've had to acknowledge the long-lasting
22 effects. One of the most painful and ongoing impacts of
23 Maxwell's and Epstein's abuse was a loss of trust in myself, my
24 perceptions and my instincts. When predators groom and then
25 abuse or exploit you, they are in a sense training you to

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1 distrust yourself. When a boundary is crossed or an
2 expectation violated, you tell yourself, "Someone who cares
3 about me to do all these nice things surely wouldn't also be
4 trying to harm me." This pattern of thinking is insidious, so
5 these seeds of self-doubt took root even as I learned my sister
6 had also been harmed by them and came to find out years later
7 that many others had been exploited.

8 THE COURT: Just a request to slow down.

9 MS. FARMER: For years these memories triggered
10 significant self-recrimination, minimization and guilt. I
11 blame myself for believing these predators actually wanted to
12 help me. I felt tremendous survivor guilt when I heard about
13 what other girls and young women had experienced at hands of
14 Maxwell and Epstein. I saw about how my sister's concern about
15 me weighed on her and felt guilty about this as well.

16 This toxic combination of being sexually exposed and
17 exploited, feeling confused and naïve and blaming myself all
18 resulted in significant shame; that sickening feeling that
19 makes you want to disappear. It was not constant but would
20 come in waves, similar to the waves that anxiety would also
21 show up. When I think back, I see a slide-show of moments when
22 these feelings would surface and overwhelm me. There are too
23 many of these moments to name and though I have come a long way
24 in my path of healing, I know that these feelings will continue
25 to be triggered at times.

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1 The ripple effects of trauma are undeniable. When one
2 person is abused, many others are also harmed. In addition to
3 the way I was impacted as an individual, there was the pain I
4 experienced as a sister due to how Maria was abused by Maxwell
5 and Epstein and the harm caused to the rest of my family due to
6 these events. My sister Maria's abuse, the sexual assault,
7 Maxwell's threats that stole her sense of safety and her
8 career, the way they used her to get to me had devastating
9 effects on her. As my family watched her grow more isolated
10 and more physically ill from the stress of all of it, we all
11 felt powerless. It was heartbreaking and infuriating, and we
12 later learned how often this pattern was repeated. A young
13 person on the path of pursuing her dreams was pulled in by
14 Maxwell, was abused and exploited, and then had to try and
15 piece together a life in the aftermath of this trauma that left
16 them feeling distrustful and fearful. Most of these
17 individuals had families who also were negatively impacted as
18 they witnessed and felt the systemic effects of their loved
19 one's losses and struggles. The number of people harmed is
20 impossible to measure. Maxwell had many opportunities to come
21 clean but instead continued to make choices that caused more
22 harm.

23 When my sister and I first spoke out to the media
24 about what happened to us, Maxwell lied about us and threatened
25 Maria, thus helping shut down investigations into their

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1 behavior so they could together continue to harm children and
2 young women. After this attempt to alert people to Epstein and
3 Maxwell's abusive behavior, I avoided being public about it for
4 two decades. My shame told me I should hide this fact because
5 it was embarrassing. Later as I pursued my profession as a
6 psychologist, I feared it could potentially ruin my career. I
7 worried clients would not want to work with me if I was
8 associated with this story, wrongly labeled as one of child
9 prostitution. I feared being on Epstein's and Maxwell's radar
10 as a problem because of their previous lies and threats.

11 Once arrested, Maxwell faced another choice. She
12 could admit her participation in this scheme, acknowledge the
13 harm caused or even provide information that could have helped
14 hold others accountable. Instead, she chose again to lie about
15 her behavior, causing additional harm to all of those she
16 victimized.

17 Judge Nathan, I hope when you consider the appropriate
18 prison sentence for the role Maxwell played in this
19 sex-trafficking operation, you take into account the ongoing
20 suffering of the many women whom she abused and exploited as we
21 will continue to live with the memories of the way she harmed
22 us. I hope you weigh the systemic effects of the crimes she
23 perpetrated, the ways that our family members, romantic
24 partners and friends have been hurt through our suffering. I
25 ask you to bear in mind how Maxwell's unwillingness to

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1 acknowledge her crimes, her lack of remorse and her repeated
2 lies about her victims created the need for many of us to
3 engage in a long fight for justice that has felt like a black
4 hole sucking in our precious time, energy and well-being for
5 much too long now, things that cannot be replaced. Thank you.

6 THE COURT: Thank you, Ms. Farmer.

7 Kate may make a statement now.

8 MS. MOE: Your Honor, before Kate speaks, I just
9 wanted to confirm that the Court's anonymity order, in
10 particular with respect to sketch artists, is in effect.

11 THE COURT: Yes. Consistent with the Court's prior
12 anonymity and pseudonym order, we will refer to this witness as
13 Kate only, and the sketch artists shall not draw an exact image
14 of Kate so that she can remain anonymous.

15 Thank you, Ms. Moe.

16 Kate, you may proceed.

17 KATE: Good afternoon, your Honor. Thank you for
18 hearing me. I believe you've already seen my victim impact
19 statement, so I have something else to say.

20 At a time when women's rights have so callously been
21 discarded, as the mother a young daughter, I fear for the
22 safety and freedom of my child. Today offers hope that change
23 is possible. Our voices may not have been heard before, but we
24 united to bring justice to a common enemy. If we cannot stop
25 women who have been raped from being forced to bear the

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1 children of their rapists, then we must take a stand on zero
2 tolerance to those who abuse their power to groom and traffic
3 and rape the vulnerable.

4 How you do anything is how you do everything. Every
5 single person should have equal value. Every single person
6 should have an equal right to be protected. Every single child
7 must have their innocence defended. No person should be
8 shielded from the consequences of their actions no matter their
9 status or class. Ghislaine's lack of remorse and her blatant
10 refusal to take responsibility for her crimes towards us is the
11 final insult.

12 Having a difficult childhood is irrelevant to the
13 choices she made to traffic and supply women/children to
14 Jeffrey Epstein and other powerful men. Despite the atrocities
15 perpetrated on me, I have never recruited a child or any person
16 to be sexually abused. Someone being a hard worker does not
17 excuse sex trafficking of minors. Someone starting a
18 non-profit does not excuse sex trafficking of minors. Someone
19 who had it difficult or even an abusive father does not excuse
20 sex trafficking of minors. Losing money and prestige does not
21 excuse sex trafficking of minors. The lack of remorse or
22 responsibility taken by Ghislaine for how she ruined the lives
23 of countless women and children is exactly how we can tell that
24 she doesn't think what she did is wrong. She is not sorry, and
25 she would do it again.

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1 I have known Ghislaine for many years now, and I have
2 seen her be kind and generous to me and many others until she
3 doesn't get what she wants from that person, and then I have
4 seen her stop at nothing to enforce her will -- a manipulative
5 cruel and merciless person who only uses kindness to manipulate
6 and generosity to seek recognition.

7 Today for the first time I stand with my sisters,
8 bonded by a trauma that I wish on no one, to draw a line and to
9 set a precedent to say enough is enough; to say no with a
10 chorus of voices that you cannot ignore. May that chorus ring
11 through the ears of people still being victimized and give them
12 strength. May it echo in the ears of perpetrators to remind
13 them that there are those of us who will never stop until we
14 stop them.

15 Today is not a happy day. I take no pleasure in being
16 part of a world where this is necessary, but I am proud to
17 stand shoulder to shoulder with these brave women and do what
18 is necessary to stop Ghislaine, to hold her accountable, and
19 for the first time in my life not to feel afraid. I could not
20 have done this alone, and I thank those who walked alongside me
21 and those who carried me. Today I can look at Ghislaine and
22 tell her that I became what I am today in spite of her and her
23 efforts to make me feel powerless and insignificant, and I will
24 pass that empowerment on to my daughter that she may never
25 consider being silent when faced with injustice because she

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1 will feel all of us standing behind her. Thank you.

2 THE COURT: Thank you.

3 I will hear the statement from counsel for Virginia
4 Roberts.

5 VIRGINIA ROBERTS COUNSEL: Good afternoon, your Honor.

6 May it please the Court, this statement I am reading
7 on behalf of my client, Virginia Giuffre, is written to
8 Ghislaine Maxwell.

9 Ghislaine: 22 years ago in the summer of 2000, you
10 spotted me at Mar-a-Lago in Florida, and you made a choice:
11 You chose to follow me and procure me for Epstein. Just hours
12 later, you and he abused me together for the first time.
13 Together you damaged me physically, mentally, sexually and
14 emotionally. Together you did unthinkable things that still
15 have a corrosive impact on me to this day.

16 I want to be clear about one thing: Without question,
17 Jeffrey Epstein was a terrible pedophile, but I never would
18 have met Jeffrey Epstein if not for you. For me, and for so
19 many others, you opened the door to hell, and then, Ghislaine,
20 like a wolf in sheep's clothing, you used your femininity to
21 betray us and you led us all through it. When you did that,
22 you changed the course of our lives forever. You joked that
23 you were like a new mother to us. As a woman, I think you
24 understood the damage that you were causing, the price you were
25 making us victims pay. You could have put an end to the rapes,

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1 the molestation, the sickening manipulation that you arranged,
2 witnessed and even took part in. You could have called the
3 authorities, and reported that you were part of something
4 awful.

5 I was young and naïve when we met, but you knew that.
6 In fact, you were counting on it. My life as a young person
7 was just beginning. You robbed me of that by exploiting my
8 hopes and ambitions. Ghislaine, the pain you have caused me is
9 almost indescribable. Because of your choices and the world
10 you brought me into, I don't sleep. Nightmares wake me at all
11 hours. In those dreams, I relive the awful things that you and
12 others did to me and the things that you forced me to do.
13 Those memories will never go away.

14 I have trouble meeting new people without questioning
15 if somehow they're going to hurt me too. There is not a day
16 that doesn't go by that I don't ask why. Why did you enjoy
17 hurting us so much? I worry every single day and night that
18 you will get away with it and evade being punished. I will
19 worry about that until you're brought to justice. And what
20 should that justice look like? Ghislaine, you deserve to spend
21 the rest of your life in prison in a jail cell. You deserve to
22 be trapped in a cage forever just like you trapped your
23 victims. But I want you to know that while you tried to break
24 me, you did not succeed. Despite you, I've grown into a woman
25 who tries to do good in the world; a woman who on her best days

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1 feels like she's making a difference.

2 My promise to you is as follows: As long as you and
3 perpetrators like you continue to prey on the vulnerable, I
4 will not stop standing up and speaking out. Together with so
5 many others you abused, we will do all we can to keep predators
6 from stealing the innocence of children. I will never give up.
7 I will never go away. If you ever get out of prison, I will be
8 here watching you and making sure you never hurt anyone else
9 again. Thank you.

10 THE COURT: Thank you, counsel.

11 And I do have the written submissions submitted in
12 accordance with the Court's order from Ms. Bryant, Ms. Maria
13 Farmer and Ms. Helm, who I understand was not able to be
14 present. And so I'll hear from Ms. Ransome. Please tell me
15 how tell me how to say your name correctly.

16 MS. RANSOME: Ransome.

17 THE COURT: Thank you.

18 MS. RANSOME: Your Honor, it's been a long journey to
19 bring Maxwell to justice. Although I have physically escaped
20 the hideous trap set by Epstein, Maxwell and other
21 co-conspirators, I continue now, 17 years later, to suffer from
22 the horrific trauma it has caused.

23 I came to New York at the age of 22 hoping to attend
24 New York's FIT and work in the fashion industry. Soon after
25 arriving, I made met an Epstein-Maxwell recruiter named Natalya

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1 Malyshev. She described him as a kind philanthropist who could
2 help me get into FIT and provide much needed support.

3 Over the next seven to eight months, I became against
4 my will nothing more than a sex toy for the entertainment of
5 Epstein, Maxwell and others. I was subjected to sexual
6 predation multiple times per day, both in his New York mansion
7 and on his private island in the U.S. Virgin Islands. On one
8 of the visits to the island, the sexual demands, degradation
9 and humiliation became so horrific that I tried to escape by
10 attempting to jump off a cliff into shark-infested waters.

11 Epstein and Maxwell were masters at finding young,
12 vulnerable girls and young women to exploit. Upon targeting a
13 vulnerable girl/young woman, they would ingratiate themselves
14 to her, giving her compliments and small gifts, telling her how
15 special she was. Soon after lulling me and others into a false
16 sense of security and comfort, they pounced, ensnaring us in
17 the upside-down, twisted world of rape, rape, rape. Like Hotel
18 California, you can check into the Epstein-Maxwell dungeon of
19 sexual hell, but you could never leave.

20 The manipulation, intimidation and emotional abuse
21 used to control the victims took many forms. In my case,
22 Epstein and Maxwell used my dysfunctional family history,
23 naivete, visa status, lack of education and desire to go to FIT
24 to manipulate, scare and ensnare me. They told me that I was
25 exceptionally intelligent and that I had real potential to be

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1 someone and something in life one day.

2 Epstein's and Maxwell's strong ties to FIT could make
3 this happen. With their help, my admission was almost assured,
4 but there was always a but. First I had to write my
5 application, which I did. But Maxwell had to review it and
6 conveniently always found fault. Then another but, I needed to
7 lose 30 pounds because I was a piglet. Maxwell's numerous
8 degrading descriptions of me. Epstein and Maxwell put me on a
9 strict Atkins diet while simultaneously sending me to a
10 psychiatrist who prescribed antidepressants that caused weight
11 gain. It was a classic no-win situation, and they knew it:
12 Precisely what human traffickers seek. I never lost the
13 weight, my application was never good enough, and it never got
14 submitted.

15 I thank the almighty God that in 2007, I managed to
16 escape the horror by fleeing to the U.K. Since then, I have
17 been coping as best as I can and frequently experience
18 flashbacks and wake up in a cold sweat from nightmares from
19 reliving the awful experience. I'm hypervigilant. I do not
20 trust people easily. I experience dramatic mood changes. I
21 will sometimes start crying uncontrollably for reasons I cannot
22 always comprehend. I worked hard with several mental health
23 professionals. They have diagnosed me with extreme symptoms of
24 anxiety, depression, low self-esteem, PTSD and tendency to
25 self-harm.

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1 Despite my earnest effort I have not realized life's
2 true potential professionally, nor entered any healthy personal
3 relationships. I have never married, and I do not have
4 children, something I always wished for when I was a little
5 girl. I shy away from meeting new people and have difficulty
6 making new friends because I fear they too could be associated
7 with Epstein and Maxwell and their enablers and
8 co-conspirators.

9 To this day I attend meetings to treat alcoholism, but
10 I have had numerous relapses, and I cannot always control that.
11 I know that only by the grace of God do I continue to live. I
12 have attempted suicide twice since the abuse -- both near
13 fatal.

14 Last year, I traveled to New York to attend Maxwell's
15 trial. It was therapeutic to hear the testimony of the four
16 brave victim-witnesses, whose experience paralleled my own, to
17 know that I was not alone, and that our story was finally being
18 told for the world to hear.

19 I am grateful the jury believed the victims and
20 returned a guilty verdict, but a question still tears at my
21 soul. After all of this, how can this five-star general of
22 this enormous sex-trafficking conspiracy involving hundreds, if
23 not thousands, of vulnerable girls and young women over three
24 decades continue to maintain her innocence? Reflecting on it,
25 I know the answer to my questions.

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1 Maxwell is today the same woman I met almost 20 years
2 ago, incapable of compassion and human common decency. Because
3 of her wealth, her social status and connections, she believes
4 herself beyond reproach and above the law. Sentencing her to
5 the rest of her life in prison will not change her, but it will
6 give the other survivors and I a slight sense of justice and
7 help us as we continue to work to recover from the
8 sex-trafficking hell she perpetrated.

9 She will never ever hurt another young woman or child
10 again in this lifetime, and for that I am sure.

11 To Ghislaine, I say, you broke me in unfathomable
12 ways, but you did not break my spirit, nor did you dampen my
13 eternal flame that now burns brighter than ever before.

14 Thank you, your Honor.

15 THE COURT: Thank you, Ms. Ransome. I will hear the
16 statement from Ms. Stein.

17 MS. STEIN: Good afternoon, your Honor.

18 THE COURT: Good afternoon.

19 MS. STEIN: I came to New York in 1991 at the age of
20 18 to attend FIT and immediately began to excel academically.
21 In my sophomore year, I accepted a Christmastime internship at
22 Henri Bendel New York. I performed well and was asked to stay
23 on as a part-time employee.

24 In the fall semester of my senior year at FIT,
25 Ghislaine Maxwell came into the store where she was a frequent

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1 customer. Her usual salesperson wasn't there, so I helped her.
2 Ghislaine was electrifying. We hit it off immediately. In
3 this first meeting we spoke of our mutual love of fashion, of
4 difficult fathers and formal upbringing, of boyfriends and of
5 how we both saw New York as a chance to start over. She told
6 me that her boss, who I later came to understand was Jeffrey
7 Epstein, was close friends with Lex Wexner, the CEO and founder
8 of The Limited, which owned Henri Bendel at the time.

9 When she completed her purchases, I offered to deliver
10 them to her so she didn't have to carry them around all day.
11 This was a courtesy I frequently extended to my high-end
12 clients. Later that day, I called her office for delivery
13 instructions and was told to bring them to a hotel close by to
14 the store. When I arrived, the hotel concierge told me
15 Ms. Maxwell was in the bar and wanted me to meet someone. It
16 was Jeffrey Epstein. That night in the hotel was the first of
17 many times they sexually assaulted me.

18 Afterwards I tried to pretend everything was normal.
19 I returned to my classes at FIT and continued to work at Henri
20 Bendel, but I started to crack. I failed a course that was
21 necessary for my degree and had to retake it to get my diploma.
22 Shortly after my first meeting with Epstein and Maxwell, I was
23 offered a full-time position at Henri Bendel. It was a newly
24 created position at the store, and it would have required me to
25 leave FIT a semester short of completing my degree. I had

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1 aspirations of going to law school, and I knew I could not do
2 so without my undergraduate degree, so I declined it.

3 When Ghislaine found out, she flew into a rage. I
4 didn't understand why until she told me that she and Epstein
5 were responsible for giving me that opportunity and that in
6 turning it down I was being ungrateful. I now know that this
7 was their standard operating procedure. Give a gift or a favor
8 and then demand sex in return. Nevertheless, I completed my
9 course work, got my degree from FIT, at which point I left
10 Henri Bendel and took a position at Bloomingdales. I wanted to
11 leave Epstein and Maxwell and the abuse they perpetrated
12 against me behind as I started my professional life. I never
13 wanted to or expected to see them again.

14 One day in the fall of 1995, Maxwell showed up at
15 Bloomingdales looking for me. When I asked her how she knew
16 where I was, she said she asked my colleagues at Henri Bendel.
17 She immediately began befriending me once again, asking me to
18 go out socially. I tried to resist but eventually she wore me
19 down, and I began spending time with them again. They made me
20 feel like they were friends, contemporaries.

21 In one instance, they took me to Florida and insisted
22 that I stay longer than planned which caused me to miss work
23 and led to me being fired. Seizing on this new vulnerability
24 they began trafficking me to their friends. By that time I was
25 trapped. I was assaulted, raped and trafficked countless times

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1 in New York and Florida during a three-year period. Things
2 happened that were so traumatizing that to this day I am unable
3 to speak about them. I don't even have the vocabulary to
4 describe them. In the most literal sense of the word, Epstein
5 and Maxwell terrified me. They told me that if I told anyone,
6 no one would believe me; and if they did, they would kill me
7 and the people closest to me. I believed them.

8 I was once bright, fun, outgoing and kind. I loved
9 life and people genuinely enjoyed being around me. After
10 meeting Jeffrey Epstein and Ghislaine Maxwell, it felt like
11 someone shut off the lights to my soul. My secrets became too
12 much for me to handle, and I began doing whatever I could to
13 try to get away from Maxwell and Epstein. I changed jobs,
14 apartments, cities and even states to try to get away.
15 Everywhere I went, they found me.

16 In 1997 I moved to Philadelphia with the hopes of
17 finally starting law school. They found me again, and it was
18 more than I could take. I was hospitalized with a nervous
19 breakdown. It would be the first of over two dozen
20 hospitalizations in a decade following my involvement with
21 Epstein and Maxwell.

22 In addition to my escalating mental health problems, I
23 began to experience physical symptoms that doctors could never
24 quite put their fingers on. I could no longer even pretend to
25 be able to hold down a job or take care of myself in any

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1 meaningful way, and I had to move back home once again.

2 Emotionally, I had cracked and nobody thought I would ever get
3 better, but I didn't give up. I was determined to do whatever
4 I had to to prove everyone wrong. I wasn't crazy. I was hurt.

5 For over a decade and a half, I went to all kinds of
6 medical specialists and was in and out of medical and
7 psychiatric hospitals, having tests and procedures, even
8 submitting to clinical trials and an experimental implantable
9 medical device. Nothing helped.

10 Just as I began to repair the emotional damage, I was
11 diagnosed with complex regional pain syndrome. CRPS is a rare
12 neuro-inflammatory disorder characterized raised by intense
13 relentless physical pain. Both CRPS and PTSD are
14 psychophysical states in which the sympathetic nervous system
15 is engaged and remains inappropriately hyperaroused. There is
16 no cure. The mind and body are interconnected. Despite of
17 this, I immersed myself this trauma therapy and repaired my
18 emotional health. I began physical therapy and regained my
19 physical mobility. I started to rebuild my life.

20 The arrest of Epstein in 2019 and Maxwell in 2020
21 helped me immensely. For the first time, I was finally able to
22 disclose their abuse to friends and medical providers. 25
23 years after meeting them my experience was validated. I could
24 finally see the possibility of closure. This past November and
25 December I commuted almost every day from my home in

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1 Philadelphia to attend Ghislaine Maxwell's trial in Manhattan.
2 For weeks I sat in this courtroom anonymously, only revealing
3 my identity the day before the verdict. I had to see justice
4 myself.

5 At the age of 48, I feel as if I'm just starting my
6 life. All those things I assumed I would have in life, the
7 things that my siblings and my friends have achieved: A
8 career, success, partner, family, a home, a legacy to be proud
9 of leaving behind were jeopardized for more than two and a half
10 decades. The only pronounced difference between my life
11 experience and theirs is that one day when I was doing my job,
12 I met Ghislaine Maxwell who fed me to Jeffrey Epstein.

13 (Continued on next page)
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1 MS. STEIN: In more ways than one, they almost killed
2 me, but I wasn't going to let them. Overcoming what happened
3 to me became my decades-long, full-time career. In that, I
4 have been successful.

5 For the past 25 years, Ghislaine Maxwell has been free
6 to live a life of wealth and privilege that is almost
7 incomprehensible. Meanwhile, I have had virtually none of the
8 life experiences I might have had we never met. For over two
9 and a half decades, I felt like I was in prison. She has had
10 her life. It's time to have mine. She needs to be imprisoned
11 so all of her victims can finally be free.

12 Thank you, your Honor

13 THE COURT: Thank you, Ms. Stein.

14 Ms. Sternheim?

15 MS. STERNHEIM: Thank you, Judge. Judge, I would like
16 to stand at the podium.

17 THE COURT: Please.

18 Let me just note again that I did have the statements
19 of the victims in the record. I thank them for making
20 statements today and thank their counsel for working with them
21 in conformity with my order.

22 MS. STERNHEIM: Your Honor, I would like to address
23 the victims. I am going to try to turn around if the Court
24 permits me.

25 THE COURT: As long as I can hear you and the court

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1 reporters can hear you.

2 MS. STERNHEIM: I am going to speak as best as I can.

3 I want to acknowledge the courage that all of you have
4 exhibited in coming forward at the trial and again today. Your
5 statements are immensely powerful. We feel the pain. We can
6 only hope that the end of this case and the sentence to be
7 imposed will give you some solace and the sanctity that you
8 have the ability to move forward and beyond all of this.

9 Judge Nathan, can you hear me? I didn't pull it out,
10 I hope.

11 THE COURT: I can.

12 MS. STERNHEIM: Okay.

13 You have heard all of the trial testimony and you are
14 fully familiar with the record. We will refrain from pointing
15 out many statements that we disagree with by the government
16 that we believe stretches the elasticity of the record well
17 beyond what we believe is fair inference. But the purpose of
18 today is not to take issue with the record; that will be
19 addressed to the Court of Appeals.

20 The government asks the Court to sentence Ms. Maxwell
21 above the more reasonable guideline range that the Court
22 determined is applicable in this case and seeks a sentence of
23 multiple decades in prison for a woman who is almost 61 years
24 old and for almost the last 20 years has not engaged in any
25 conduct similar to that which was the subject of the trial and

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1 the conviction.

2 The government has asked for an immense sentence. We
3 recognize that any sentence in this case is going to be
4 significant and is going to be immensely punishing. The
5 probation department, based on the original guidelines in the
6 presentence report, recommended a downward variance to 20
7 years. That recommendation is now higher than the guideline
8 range that is applicable in this case. But we ask the Court to
9 consider the justification that probation articulated in the
10 presentence report in fashioning a sentence that takes into
11 consideration that a sentence lower than the guideline range is
12 appropriate in this case.

13 The government's sentence asks for the outer limits,
14 and although we still believe that even the recommendation is
15 too high, a sentence within the guideline range now may be more
16 reasonable, but it still does not take into consideration some
17 of the various factors that we have brought to the Court's
18 attention in our submission. Simply stated, based upon the
19 conduct of conviction, the government's request is out of
20 proportion. Jeffrey Epstein would have faced the same
21 sentence, and he is clearly far more culpable than Ghislaine
22 Maxwell.

23 THE COURT: You mean he would have faced the same
24 guidelines.

25 MS. STERNHEIM: Yes, that is correct, Judge.

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1 The sentencing submissions, which I know the Court has
2 read—and I know the Court reads everything very critically and
3 carefully—outlines and details our position, and I am not
4 going to take the time to repeat those things unless the Court
5 requests me to answer certain questions.

6 But in fashioning the appropriate sentence for this
7 case and this defendant, the Court needs to take into
8 consideration the various 3553(a) factors that the Court must
9 take into consideration in every case regardless of what the
10 crime of conviction is.

11 I know that what we heard today does not beg sympathy
12 for Ms. Maxwell, but there are circumstances in her life that
13 bear attention by the Court in imposing a reasonable sentence
14 in this case. She has lived the entirety of her life under
15 giant clouds that have cast very dark shadows. The tragic
16 accident of her eldest brother within 72 hours of her birth on
17 Christmas Day left him in a coma for seven years, until he
18 died, an event that impacted her family to this day and
19 overshadowed infant Ghislaine's entry into the world and her
20 early childhood. Her narcissistic, brutish, and punitive
21 father overwhelmed her adolescence and early adulthood. And
22 the controlling, demanding, manipulative Jeffrey Epstein cast a
23 deceptive shadow over Ghislaine's adulthood, the repercussions
24 of which will plague her until her last breath. And like the
25 past two years of intense presentence incarceration, which was

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1 unusually harsh and punishing, she will remain in the shadow of
2 prison bars until she can return to the sunlight of liberty.

3 As I said before, she is over 60 years old. She has
4 no history of violence. She had no criminal history before or
5 after the crimes of conviction, which ended some 20 years ago,
6 and the Court needs to consider that there is an extensive
7 period that has elapsed from the end of the charged conduct.
8 She poses no danger to society or of recidivism. Her personal
9 circumstances include many accomplishments and good deeds.

10 As I said, she has been subjected to extensive
11 punishing conditions of presentence incarceration in solitary
12 confinement. When she was moved within the last two months to
13 general population, she began interacting with the inmates and
14 assisting them in many, many ways. She began conducting
15 English classes and GED tutoring, programs that were no longer
16 being offered in the MDC and certainly had been suspended as a
17 result of the ongoing pandemic. Her asset to the unit in
18 general population is recited in the unsolicited letter
19 submitted to the Court from one of her fellow unit inmates.
20 But I have also been contacted personally by counsel for other
21 inmates in Ms. Maxwell's unit, reporting to me that she is
22 providing needed educational assistance that has not been
23 ongoing for at least two years.

24 Ms. Maxwell is being sentenced for terrible conduct.
25 There is no denying that. But she has the ability and the

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1 desire to be law-abiding, which she has exhibited, and to do
2 good. Before the charged offense and for the better part of
3 the past 20 years, she has demonstrated that she is not a
4 danger to anyone. A sentence below the applicable guidelines
5 is sufficient, but not greater than necessary, punishment for
6 Ghislaine Maxwell. The Court should not send her away for the
7 rest of her life.

8 Thank you.

9 THE COURT: Thank you, Ms. Sternheim.

10 Ms. Maxwell, you have the right to make a statement.
11 You are not obligated to do so, but if you would like to, you
12 may do so now.

13 THE DEFENDANT: I would, your Honor.

14 MS. STERNHEIM: She would. Where would you like her
15 to -- I'm sorry, Judge. Where would you like her to address
16 the Court?

17 THE COURT: Are the marshals comfortable with the
18 podium?

19 THE MARSHAL: Yes, your Honor.

20 THE COURT: You can go to the podium, Ms. Maxwell.

21 MS. STERNHEIM: Thank you very much.

22 And she may remove her mask?

23 THE COURT: Once you are at the podium, yes, you may
24 remove your mask.

25 THE DEFENDANT: Thank you, your Honor.

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1 Your Honor, it is hard for me to address the Court
2 after listening to the pain and anguish expressed in the
3 statements made here today. The terrible impact on the lives
4 of so many women is difficult to hear and even more difficult
5 to absorb, both in its scale and in its extent. I want to
6 acknowledge their suffering and empathize. I empathize deeply
7 with all of the victims in this case.

8 I also acknowledge that I have been convicted of
9 helping Jeffrey Epstein commit these crimes. And despite the
10 many helpful and positive things I have done in my life, and
11 will continue to do, to assist others during my sentence, I
12 know that my association with Epstein and this case will
13 forever and permanently stain me.

14 It is the greatest regret of my life that I ever met
15 Jeffrey Epstein. I have had plenty of time to think, having
16 spent two years in solitary confinement. I believe that
17 Jeffrey Epstein was a manipulative, cunning, and controlling
18 man who lived a profoundly compartmentalized life and fooled
19 all of those in his orbit.

20 Variously, his victims considered him as a godfather,
21 a mentor, benefactor, friend, lover. It is absolutely
22 unfathomable today to think that that is how he was viewed
23 contemporaneously.

24 His impact on all those who were close to him has been
25 devastating, and today those who knew him even briefly, or

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1 never met him but were associated with someone who did, have
2 lost relationships, have lost jobs, and have had their lives
3 completely derailed.

4 Jeffrey Epstein should have been here before all of
5 you. He should have stood before you all those years ago. He
6 should have stood before you in 2005, again in 2009, and again
7 in 2019, all of the many times he was accused, charged, and
8 prosecuted.

9 But today it is not about Epstein ultimately. It is
10 for me to be sentenced and for the victims to address me, and
11 me alone, in this court.

12 To you, all the victims, those who came in court and
13 to those outside, I am sorry for the pain that you experienced.
14 I hope that my conviction, along with my harsh and unusual
15 incarceration, brings you closure. I hope this brings the
16 women who have suffered some measure -- I hope that this brings
17 the women who have suffered some measure of peace and finality
18 to help you put the experiences of those many years ago in a
19 place that allows you to look forward and not back.

20 I also acknowledge the pain this case has brought to
21 those that I love, the many I held and still hold close, which
22 tortures me every single day, and the relationships that I have
23 lost and will never be able to regain.

24 It is my sincerest wish to all those in this courtroom
25 and to all those outside this courtroom that this day brings a

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1 terrible chapter to the end, to an end. And to those of you
2 who spoke here today and to those of you who did not, may this
3 day help you travel from darkness into the light.

4 Thank you, your Honor.

5 THE COURT: Thank you, Ms. Maxwell.

6 Counsel, is there anything else -- I'm sorry, let
7 me -- I do want to ask defense counsel, before I get there, if
8 there are any objections to any of the conditions recommended
9 by the Probation Department with respect to supervised release.

10 MS. STERNHEIM: No, Judge.

11 THE COURT: Okay. And I understand the government is
12 not -- I just want to talk about restitution before I get to
13 the statement of judgment.

14 Count Six is mandatory restitution, but the
15 government's position is that no restitution should be ordered
16 because all victims have been compensated.

17 MS. MOE: That is correct, your Honor.

18 THE COURT: Counsel, is there anything else I should
19 consider or any reason why sentence should not be imposed at
20 this time?

21 MS. MOE: No, your Honor. Thank you.

22 MS. STERNHEIM: No.

23 THE COURT: All right. Let me gather my thoughts for
24 one moment.

25 (Pause)

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1 THE COURT: Thank you for your patience.

2 As I have stated, the guideline range applicable to
3 this case is 188 to 235 months' imprisonment.

4 Under the Supreme Court's decision in a case called
5 *Booker* and related cases, the guideline range is only one
6 factor that the Court must consider in deciding the appropriate
7 sentence. I am also required to consider the other factors set
8 forth in a provision called 18 U.S.C. 3553(a). These include
9 the nature and circumstances of the offense, and the history
10 and characteristics of the defendant; the need for the sentence
11 imposed to reflect the seriousness of the offense, to promote
12 respect for the law, to provide just punishment for the
13 offense, to afford adequate deterrence to criminal conduct, to
14 protect the public from further crimes of the defendant, to
15 provide needed educational, vocational training, medical care,
16 or other treatment. I am to take into account the kinds of
17 sentences available, as I have said, the guideline range, any
18 pertinent policy statement, the need to avoid unwarranted
19 sentence disparities among defendants with similar records who
20 have been found guilty of similar conduct, the need to provide
21 restitution as appropriate under the law to any victims of the
22 offense.

23 I am required to impose a sentence sufficient, but no
24 greater than necessary, to comply with the purposes I have just
25 described. I have given substantial thought and attention to

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1 the appropriate sentence in this case in light of the 3553(a)
2 factors and the appropriate purposes of sentencing as reflected
3 in that statute.

4 The crimes for which I sentence Ms. Maxwell today are
5 the crimes for which a jury convicted her of committing
6 following trial. I do want to emphasize that today the
7 sentence is based entirely on those crimes and the harm done to
8 the victims of those charged and proved crimes. The evidence
9 at trial established that Ms. Maxwell directly and repeatedly
10 and over the course of many years participated in a horrific
11 scheme to entice, transport, and traffic underage girls, some
12 as young as 14, for sexual abuse by and with Jeffrey Epstein.

13 I will pause on those words for a moment, "by and with
14 Epstein." It is important at the outset to emphasize that
15 although Epstein was, of course, central to this criminal
16 scheme, Ms. Maxwell is not being punished in place of Epstein
17 or as a proxy for Epstein. Like every other participant in a
18 multi-defendant case, Ms. Maxwell is being punished for the
19 role that she played in the criminal conduct. As to that role,
20 the trial evidence established that Ms. Maxwell was
21 instrumental in the abuse of several underage girls and that
22 she herself participated in some of the abuse, and it is her
23 conduct for which she has been convicted in the court under the
24 laws of this country and it is her conduct for which she must
25 be held accountable.

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1 Turning to that conduct, the punishment here must
2 reflect the seriousness of the offense, promote respect for the
3 law, provide just punishment for the offense, and deter.

4 First, as to the seriousness, the defendant's conduct
5 was, as aptly described by the probation department, heinous
6 and predatory. Ms. Maxwell worked with Epstein to select young
7 victims who were vulnerable. Once selected, Ms. Maxwell played
8 a pivotal role in facilitating the abuse of the underaged girls
9 through a series of deceptive tactics. A sophisticated adult
10 woman, she provided an initial veneer of responsibility and
11 even safety. She befriended and developed relationships of
12 trust. She then manipulated the victims and normalized sexual
13 abuse through her involvement, encouragement, and instruction.

14 To give one example from trial, Jane testified that
15 Ms. Maxwell cultivated a friendship with her, took her to
16 movies and shopping. In an initial sexual interaction, while
17 Jane was 14 years old, the defendant engaged in sexual conduct
18 with Epstein while Jane was present. After that, the defendant
19 instructed Jane, again, while she was only 14 years old, on how
20 to massage Epstein, including instructions on how to touch his
21 penis during massages. The abuse later escalated to Epstein
22 using vibrators on Jane, penetrating her with his fingers.
23 During some of the sexual abuse, the defendant would herself
24 touch Jane's breasts.

25 Carolyn, the victim of the sex trafficking charge,

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1 provides another example. She testified that she confided in
2 the defendant that her mother was an alcohol and that she had
3 been raped and molested by her grandfather starting at a very
4 young age. The defendant, aware of this knowledge, used it to
5 subject Carolyn to a continuing cycle of sexual abuse. The
6 defendant wasn't an impassive observer, but herself touched
7 Carolyn's breasts, again, at the time Carolyn was 14. For
8 years, Carolyn was paid for the sexualized massages, including
9 personally paid by the defendant.

10 Similar patterns of conduct were described by other
11 witnesses. Indeed, the criminal conduct established at trial
12 was extensive and it was far-reaching. Ms. Maxwell and Epstein
13 victimized multiple underaged girls using this pattern, this
14 playbook, over the span of many years and in a variety of
15 locations. And the damage done to these young girls was
16 incalculable. They did bravely testify at trial about what
17 happened to them despite the extraordinary difficulty that
18 entailed. They withstood cross-examination from zealous
19 defense counsel and testified credibly at trial about the
20 trauma that they had endured and the painful, horrific, and
21 lasting impact of that trauma. They did so, they told me in
22 their statements, in order to help ensure justice for
23 themselves and others and to do what they could to try to
24 prevent other girls from suffering in the future as they had
25 suffered.

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1 The sentence I impose must reflect the gravity of
2 Ms. Maxwell's conduct, of Ms. Maxwell's offense, the pivotal
3 role she played in facilitating the offense, and the
4 significant and lasting harm it inflicted. So, too, must the
5 sentence promote respect for the law, provide just punishment,
6 and afford adequate deterrence.

7 As I have described, this scheme was long-lasting, it
8 was far-reaching, it was horribly damaging to the victims.
9 Just punishment and promotion of respect for the law, it
10 demands a substantial sentence that meets the scope of the
11 conduct and the scope of the harm.

12 Moreover, general deterrence is critically important
13 to the sentence I will impose. A substantial sentence will
14 send an unmistakable message that those who engage in and
15 facilitate the sexual abuse and trafficking of underaged
16 victims will be held accountable by the law.

17 As the probation department stated, a significant
18 sentence should promote general deterrence against the
19 exploitation and degradation of humans made possible by this
20 offense, and I fully agree. But let me be clear that
21 Ms. Maxwell is wealthy or that this case is high profile is not
22 a basis for increasing punishment in any regard, but the rule
23 of law demands, and this Court must ensure that, whether you
24 are rich or poor, powerful or entirely unknown, nobody is above
25 the law. That message serves the important interest in

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1 deterrence and just punishment as well. All of these factors
2 suggest that a very serious, a very significant sentence is
3 necessary to achieve the purposes of punishment that I have
4 just described.

5 Of course I must, and I do, take into account the
6 history and characteristics of the defendant. Ms. Maxwell is
7 over 60 years old. This is her first conviction. Neither in
8 arguing for pretrial detention nor with respect to sentencing
9 has the government contended that Ms. Maxwell represents a
10 continuing danger to the public. As I explained, I do not need
11 to find she is a continuing danger to apply 4B1.5(b), as her
12 decade-long pattern of predatory activity amply justifies that
13 enhancement and a substantial sentence, but her present lack of
14 dangerousness is a factor in my consideration of a proper
15 sentence.

16 Her sentencing submission letters and psychological
17 report discuss the impacts of an overbearing and demanding
18 father and the tragic death of her brother at the beginning of
19 her life. The record indicates that she has engaged in some
20 charitable works, including environmental conservation and
21 health-related charitable organizing and giving. The set of
22 letters I received from her family members and friends describe
23 her as attentive and loving to her family and a loyal and
24 generous friend. A letter from an inmate describes her
25 tutoring of other inmates while incarcerated and Ms. Sternheim

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1 represents that she has heard similarly from other defense
2 counsel. I take all of these factors into account consistent
3 with the 3553(a) statutory provision when deciding what
4 sentence to impose.

5 Beyond these factors, much of the defense written
6 submission, not the oral statement today, but much of the
7 written submission focused on a series of complaints about
8 Ms. Maxwell's pretrial detention. As I have said in many
9 sentencing proceedings since the pandemic began, the conditions
10 in the MDC have been extremely difficult for all inmates as a
11 result. There have been extended periods of lockdown, health
12 risks, and the lack of access to legal and social visits and
13 programming and the like. Conditions at the MDC are, to put it
14 mildly, not what they should be, and serving time during the
15 pandemic has been more difficult than serving time before it.
16 As I have in other sentencings, I take into account this in
17 imposing an appropriate sentence. I also take into account
18 that, as a high-profile defendant charged and convict of sex
19 offenses against minors, Ms. Maxwell faces security risks and
20 has endured additional isolation and surveillance beyond the
21 typical pretrial detainee.

22 That said, I largely reject the defense's primary
23 written contention that Ms. Maxwell has been singled out for
24 uniquely harsh and punishing treatment. To the contrary, I
25 agree with the government that many of the complaints have been

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1 unfounded and exaggerated and that Ms. Maxwell's treatment at
2 MDC was overall as good as or better than that of the typical
3 pretrial detainee at the MDC during the pandemic.

4 I also reject the repeated allegations that
5 Ms. Maxwell, who was provided extensive access to computers and
6 legal materials, as well as to highly involved counsel, was in
7 any way not able to prepare for trial or sentencing. I will
8 say that I think a lack of full candor regarding treatment is
9 consistent with a lack of candor to Pretrial Services and to
10 the Court regarding finances, as well as the dishonesty that I
11 have concluded occurred during the civil deposition that makes
12 up the perjury counts. Overall, the behavior appears
13 consistent with a pattern of deflection of blame.

14 I will note that I was -- I would emphasize that the
15 sentencing submission talks about these complaints and blames
16 others but did not express remorse or acceptance of
17 responsibility. Ms. Sternheim and Ms. Maxwell today
18 acknowledge the courage of the victims who testified and who
19 spoke, talked about the pain and anguish that they have
20 expressed, to some extent acknowledged the impact on them and
21 their suffering, and I think that is important for the victims
22 to hear. What there wasn't expressed was acceptance of
23 responsibility. Now let me be clear. Ms. Maxwell is fully
24 entitled to exercise her constitutional -- was fully entitled
25 and is fully entitled to exercise her constitutional right to

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1 go to trial. She has every right to appeal that verdict. But
2 it is appropriate for this Court, in the face of genuine
3 expressions of remorse and acceptance of responsibility, to
4 decrease punishment because that's part of the message that's
5 being sent by the law. It's appropriate to note and to take
6 into account a lack of acceptance of responsibility, a lack of
7 expression of remorse as to her own conduct. Today's sentence
8 will attempt to acknowledge the harm that Ms. Maxwell caused
9 and it will strongly and unequivocally condemn her criminal
10 conduct.

11 I do conclude, consistent with the Probation
12 Department recommendation, that a sentence of 240 months, which
13 is slightly above the guideline range that I found, is both
14 sufficient and necessary -- and no greater than necessary to
15 meet the purposes of punishment that I have described.

16 I will now formally state the sentence I intend to
17 impose. I will ask Ms. Maxwell and her counsel to please rise.

18 Ms. Maxwell, it is the judgment of this Court that you
19 be sentenced to a period of 240 months, 20 years, to be
20 followed by a period of five years' supervised release.

21 You may be seated.

22 To be precise, I am sentencing Ms. Maxwell to 60
23 months on Count Three, 120 months on Count Four, and 240 months
24 on Count Six, all to run concurrently, for a total of 240
25 months' imprisonment. I am sentencing her to three years of

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1 supervised release on Counts Three and Four and five years on
2 Count Six, all to run concurrently, for a total of five years
3 of supervised release.

4 Defense counsel indicated no objection to the
5 conditions of supervised release indicated in the presentence
6 report, and so I impose them precisely as stated in the
7 presentence report, including the standard conditions, special
8 conditions, and mandatory conditions of supervised release.
9 Again, I am imposing them precisely as stated in the PSR.

10 I order Ms. Maxwell to pay a fine in the amount of
11 \$750,000. The maximum amount per count is \$250,000, so that is
12 \$750,000 total. As I have indicated, I reject the contention
13 that the defendant is unable to pay a fine. Ms. Maxwell has
14 received a \$10 million bequest from Epstein. This is in
15 addition to her other assets. And the defendant, I conclude,
16 is able to afford a substantial fine, and I conclude that the
17 maximum amount per count is reasonable under all relevant
18 circumstances in light of the counts of conviction.

19 The government has indicated that it is not seeking
20 restitution nor forfeiture.

21 I am imposing a mandatory special assessment, as I
22 must, of \$100 per count, which is due immediately.

23 Does either counsel know of any legal reason, other
24 than those already argued, why the sentence shall not be
25 imposed as stated?

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1 MS. MOE: No, your Honor.

2 MS. STERNHEIM: Your Honor, I would just like to make
3 one statement, if I may. With regard to the fine, the Court
4 indicated the bequest in the will. I just want the record to
5 reflect that that is an unactualized bequest, as Ms. Maxwell
6 has received nothing, and it is the expectation that she will
7 receive nothing.

8 THE COURT: I understand. And to be clear, I am not
9 finding and accept that she hasn't received anything, but there
10 have only been nonspecific claims that she won't receive
11 anything and there are additional assets that lead me to the
12 conclusion that she is able to pay the fine.

13 MS. STERNHEIM: Thank you, Judge.

14 THE COURT: Thank you.

15 And just to confirm, Ms. Sternheim, any legal reason
16 why the sentence should not be imposed as stated other than
17 what already was argued?

18 MS. STERNHEIM: No, your Honor, but I do have requests
19 for recommendation.

20 THE COURT: I will get there. Thank you.

21 The sentence as stated is imposed. I do find the
22 sentence is sufficient but not greater than necessary to
23 satisfy the sentencing purposes that I described earlier.

24 Ms. Maxwell, when you are released and on supervised
25 release, you will have the guidance and support of the

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1 probation department. I must caution you to comply strictly
2 with all of your conditions of supervised release. If you are
3 brought back before me for a violation of those conditions, I
4 may sentence you to another term of imprisonment.

5 With that, Ms. Sternheim, requests regarding
6 designation?

7 MS. STERNHEIM: Thank you, Judge.

8 We request that Ms. Maxwell be designated, based on a
9 recommendation by the Court, to the BOP facility, the women's
10 facility in Danbury, and also a recommendation that she be
11 enrolled in the FIT program, which is the Female Integrated
12 Treatment program, to address past familial and other trauma.

13 THE COURT: Okay.

14 MS. STERNHEIM: Thank you.

15 THE COURT: I recommend to the Bureau of Prisons
16 consideration of placement in Danbury and consideration of
17 eligibility for enrollment in the FIT program.

18 Ms. Moe, remaining counts and underlying indictments
19 that need to be dismissed at this time?

20 MS. MOE: Yes, your Honor. The government moves to
21 dismiss Counts Seven and Eight and any underlying indictments.

22 THE COURT: The motion is granted. Counts Seven and
23 Eight are dismissed and any underlying indictments are
24 dismissed.

25 Ms. Maxwell, I am required to inform you of your

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1 appellate rights. You have the right to appeal your conviction
2 and your sentence. The notice of appeal must be filed within
3 14 days of the judgment of conviction.

4 Other matters to take up counsel?

5 MS. MOE: Not from the government, your Honor. Thank
6 you.

7 MS. STERNHEIM: No. Thank you.

8 THE COURT: Let me note, I will issue a housekeeping
9 order posttrial to ensure complete docketing of all -- any
10 outstanding materials and complete records, so please look for
11 that. I will issue the judgment -- I should just say, Ms. Moe,
12 the Court intends to indicate the end of the conspiracy date as
13 the last date in the record, which I believe is in July of
14 2004, of acts in furtherance of the criminal conduct, and
15 obviously the government took a different position with respect
16 to that. But in light of the Court's finding, any objection to
17 that?

18 MS. MOE: No, your Honor. We will review the
19 exhibits. If that date is different from the sentencing
20 transcript, we will submit a letter to the Court, but otherwise
21 no objection, your Honor.

22 MS. STERNHEIM: No objection.

23 THE COURT: All right.

24 MS. MOE: With apologies, your Honor, with respect to
25 the judgment, in light of the Court's decision to impose an

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1 above-guidelines sentence and an above-guidelines fine, we
2 would respectfully request that the Court address both the
3 sentence and the fine in the Court's statement of reasons.

4 THE COURT: Yeah, I actually -- guideline range, let
5 me just check. I meant to talk about that. I'm not sure it is
6 an above-guidelines, but it may be since, as we know, I read
7 over five to mean five. So maybe I got that wrong. Let me
8 just check.

9 Oh, you are right. It is 20 to 200,000 for each
10 count. Do I have that right?

11 MS. MOE: Yes, your Honor. Thank you.

12 THE COURT: All right. Thank you.

13 I want to thank counsel. As I indicated, I do thank
14 the victims who made statements in writing or orally and their
15 counsel who supported them in that endeavor. I thank counsel
16 for Ms. Maxwell and counsel for the government.

17 We are adjourned.

18 oOo